

BLACK MOUNTAIN UTILITY DISTRICT

609 FOURMILE ROAD
BAXTER, KY 40806
606-573-1277
606-573-1276 FAX

RECEIVED

MAY 06 2015

PUBLIC SERVICE
COMMISSION

May 6, 2015

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

RE: Black Mountain Utility District; Harlan Co., KY
Alternative Rate Adjustment Application
PSC Case No. 2015-0088

Dear Mr. Derouen:

This letter and attachments serve as Black Mountain Utility District's (BMUD) responses to the deficiencies noted in the April 21, 2015 letter from Mr. Linda Faulkner regarding our Alternative Rate Adjustment Application, PSC Case No. 2015-0088.

Section 4 (1) (b) Copy of all outstanding evidences of indebtedness

To supplement the previously submitted information, attached to this letter are copies of the face of each of the bonds held by USDA – Rural Development, a copy of PSC Order in Case No. 2006-00531 approving the assumption of the Wallins Creek bond, Bond Ordinance 001-88A City of Wallins Creek, Kentucky relative to the Wallins Creek Bond, and the BMUB Bond Resolution authorizing BMUD Water and Sewer Revenue Bonds, Series 1998, which is the latest bond held by USDA-Rural Development.

If this information does not adequately address this deficiency, BMUD is hereby requesting leave to deviate from the requirements of Section 4 (1) (b) pursuant to 807 KAR 5:076 Section 17 as this is the only information reasonably available from BMUD or USDA – Rural Development.

Section 5(4) Does notice of proposed rate adjustment meet regulatory requirements.

Pursuant to 807 KAR 5:076 Section 17, the Black Mountain Utility District is hereby requesting leave to deviate from the required wording in 807 KAR 5:076 Section 5

May 6, 2015

Page 2 of 2

Notice (4) Notice Content (g) in its Alternative Rate Adjustment Application submitted in PSC case no. 2015-0088. Due to a typographical error in the notice provided to the Harlan Daily Enterprise (copy attached), the post office box number for the Public Service Commission was incorrectly listed as box 625 instead of box 615 in the sentence informing the public where it can submit comments to the Public Service Commission on the proposed rate adjustment. To compensate for this misinformation, BMUD included a statement on the bills mailed to each of its customers on April 30, 2015 explaining there was a typo on the published notice and giving the correct P.O. box number (see attached copy). A copy of the corrected notice has also been displayed at BMUD's office in the area where customers pay their bills, sign up for service, etc.

Publishing the notice three times in the Harlan Daily Enterprise cost BMUD \$2,166.75. Running a corrected notice at this cost would not appear to be justified.

Thank you for your consideration on these two deficiencies.

Sincerely,



Steve Sergent
Chairman

Attachments

UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
COUNTY OF HARLAN

REGISTERED



BLACK MOUNTAIN UTILITY DISTRICT
WATER AND SEWER REVENUE BOND, SERIES 1998
INTEREST RATE: 4.50%

REGISTERED



KNOW ALL MEN BY THESE PRESENTS: That the Black Mountain Utility District (the "District"), acting by and through its Board of Commissioners (the "Commission"), a public body corporate in Harlan County, Kentucky, for value received, hereby promises to pay to UNITED STATES OF AMERICA, acting by and through the U.S. DEPARTMENT OF AGRICULTURE, 771 Corporate Drive, Suite 200, Lexington, Kentucky 40503-5477, the registered owner hereof, or to its registered assigns, solely from the fund hereinafter identified, the sum of

FOUR HUNDRED SEVENTY-TWO THOUSAND DOLLARS (\$472,000)

on the first day of January, in years and installments as follows:

Payment Due January 1,	Principal Payment	Payment Due January 1,	Principal Payment	Payment Due January 1,	Principal Payment
2001	\$ 5,000	2014	\$9,000	2027	\$15,000
2002	5,000	2015	9,000	2028	16,000
2003	5,000	2016	10,000	2029	17,000
2004	6,000	2017	10,000	2030	17,000
2005	6,000	2018	10,000	2031	19,000
2006	6,000	2019	11,000	2032	19,000
2007	6,000	2020	11,000	2033	20,000
2008	7,000	2021	12,000	2034	21,000
2009	7,000	2022	12,000	2035	22,000
2010	7,000	2023	13,000	2036	23,000
2011	8,000	2024	13,000	2037	24,000
2012	8,000	2025	14,000	2038	26,000
2013	8,000	2026	15,000		

the United States of America, at the address of the registered owner shown on the registration book of the District.

This Bond is issued by the District under and in full compliance with the Constitution and Statutes of the Commonwealth of Kentucky, including Chapters 58 and 74 of the Kentucky Revised Statutes (collectively the "Act"), and pursuant to a duly adopted Bond Resolution of the District authorizing same (the "Current Bond Resolution"), to which Current Bond Resolution reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the registered owner of this Bond, and the rights, obligations and duties of the District, for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the existing combined and consolidated waterworks and sewer system of the District (said existing combined and consolidated waterworks and sewer system, together with said extensions, additions and improvements, being hereinafter referred to as the "System").

[FURTHER PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF]

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed in due time, form and manner as required by law, and that the face amount of this Bond, together with all other obligations of the District, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

IN WITNESS WHEREOF said Black Mountain Utility District, by its Board of Commissioners, has caused this Bond to be executed by its Chairman, its corporate seal to be hereunto affixed, and attested by its Secretary, on the date of this Bond, which is **November 17, 1998.**

and in like manner, solely from said fund, to pay interest on the balance of said principal sum from time to time remaining unpaid, at the Interest Rate specified above, semiannually on the first days of January and July in each year, beginning with the first January or July after the date of this Bond, until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable hereto, both principal and interest being payable, without deduction for exchange or collection charges, in lawful money of

BLACK MOUNTAIN UTILITY DISTRICT
Harlan County, Kentucky

Attest: Kale Sawyer
Secretary



By: Ed R. Peley
Chairman

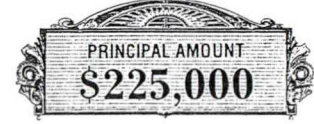
UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
COUNTY OF HARLAN

REGISTERED

BLACK MOUNTAIN UTILITY DISTRICT

REGISTERED

WATER AND SEWER REVENUE BONDS, SERIES 1995A
INTEREST RATE: 4.5%



KNOW ALL MEN BY THESE PRESENTS: That the Black Mountain Utility District (the "District"), acting by and through its Board of Commissioners (the "Commission"), a public body corporate in Harlan County, Kentucky, for value received, hereby promises to pay to UNITED STATES OF AMERICA, acting by and through the U.S. DEPARTMENT OF AGRICULTURE, 771 Corporate Drive, Suite 200, Lexington, Kentucky 40503-5477, the registered owner hereof, or to its registered assigns, solely from the fund hereinafter identified, the sum of

TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$225,000)

on the first day of January, in years and installments as follows:

Year	Principal	Year	Principal
1998	\$2,000	2011	\$4,000
1999	2,000	2012	4,000
2000	2,500	2013	4,500
2001	2,500	2014	4,500
2002	2,500	2015	5,000
2003	2,500	2016	5,000
2004	3,000	2017	5,500
2005	3,000	2018	5,500
2006	3,000	2019	6,000
2007	3,500	2020	6,000
2008	3,500	2021	6,500
2009	3,500	2022	7,000
2010	4,000	2023	7,000
		2024	\$ 7,500
		2025	8,000
		2026	8,000
		2027	9,000
		2028	9,000
		2029	9,500
		2030	9,500
		2031	10,000
		2032	10,500
		2033	11,000
		2034	12,000
		2035	13,000

Resolution reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the registered owner of this Series 1995A Bond, and the rights, obligations and duties of the District, for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the existing combined and consolidated waterworks and sewer system of the District (said existing combined and consolidated waterworks and sewer system, together with said extensions, additions and improvements, being hereinafter referred to as the "System").

This Series 1995A Bond is issued on a parity as to security and source of payment with the Series 1995B Bonds and with certain outstanding Black Mountain Utility District Water and Sewer Revenue Bonds of 1988, dated March 25, 1993 (the "Bonds of 1988"), authorized by a Resolution enacted by the Commission of the District on January 17, 1989 (the "1988 Bond Resolution"); and the outstanding Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1994, dated December 15, 1994 (the "Bonds of 1994"), authorized by an Resolution enacted by the Commission of the District on September 13, 1994 (the "1994 Bond Resolution") [hereinafter the Bonds of 1988 and the Bonds of 1994 shall be collectively referred to as the "Prior Bond Bonds", and the 1988 Bond Resolution and the 1994 Bond Resolution shall be collectively referred to as the "Prior Bond Resolution"]. Accordingly, this Series 1995A Bond, together with the Prior Bonds, the Series 1995B Bonds and any bonds ranking on a parity herewith, is payable from and secured on a first lien basis by a pledge of the gross revenues to be derived from the operation of the System.

[FURTHER PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF]

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Series 1995A Bond, do exist, have happened and have been performed in due time, form and manner as required by law, and that the face amount of this Series 1995A Bond, together with all other obligations of the District, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

IN WITNESS WHEREOF said Black Mountain Utility District, by its Board of Commissioners, has caused this Series 1995A Bond to be executed by its Chairman, its corporate seal to be hereunto affixed, and attested by its Secretary, on the date **September 7, 1995.**

BLACK MOUNTAIN UTILITY DISTRICT
Harlan County, Kentucky

Attest: Kate Saylor, Jr.
Secretary

By: Eddie Penley
Chairman

UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
COUNTY OF HARLAN

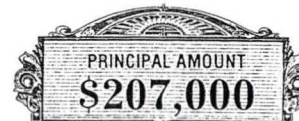
REGISTERED

BLACK MOUNTAIN UTILITY DISTRICT

REGISTERED

WATER AND SEWER REVENUE BONDS, SERIES 1995B

INTEREST RATE: 4.5%



KNOW ALL MEN BY THESE PRESENTS: That the Black Mountain Utility District (the "District"), acting by and through its Board of Commissioners (the "Commission"), a public body corporate in Harlan County, Kentucky, for value received, hereby promises to pay to UNITED STATES OF AMERICA, acting by and through the U.S. DEPARTMENT OF AGRICULTURE, 771 Corporate Drive, Suite 200, Lexington, Kentucky 40503-5477, the registered owner hereof, or to its registered assigns, solely from the fund hereinafter identified, the sum of

TWO HUNDRED SEVEN THOUSAND DOLLARS (\$207,000)

on the first day of January, in years and installments as follows:

Year	Principal	Year	Principal	Year	Principal
1998	\$2,000	2011	\$4,000	2024	\$ 7,000
1999	2,500	2012	4,000	2025	7,000
2000	2,500	2013	4,000	2026	7,500
2001	2,500	2014	4,500	2027	7,500
2002	2,500	2015	4,500	2028	8,000
2003	2,500	2016	5,000	2029	8,500
2004	3,000	2017	5,000	2030	9,000
2005	3,000	2018	5,000	2031	9,000
2006	3,000	2019	5,500	2032	9,500
2007	3,000	2020	5,500	2033	10,000
2008	3,500	2021	6,000	2034	10,500
2009	3,500	2022	6,000	2035	11,000
2010	3,500	2023	6,500		

and in like manner, solely from said fund, to pay interest on the balance of said principal sum from time to time remaining unpaid at the Interest Rate specified above, semiannually on the first days of January and July in each year, beginning with the first January or July after the date of this Series 1995B Bond, until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable hereto, both principal and interest being payable, without deduction for exchange or collection charges, in lawful money of the United States of America, at the address of the registered owner shown on the registration book of the District.

This Series 1995B Bond is issued by the District in conjunction with \$225,000 of the District's Water and Sewer Revenue Bonds, Series 1995A (the "Series 1995A Bonds") under and in full compliance with the Constitution and Statutes of the Commonwealth of Kentucky, including Chapters 58 and 74 of the Kentucky Revised Statutes (collectively the "Act"), and pursuant to a duly adopted Bond Resolution of the District authorizing same (the "Current Bond Resolution"), to which Current Bond

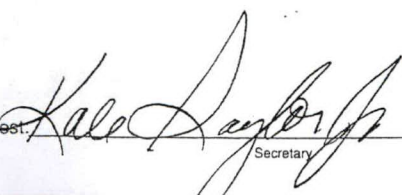
Resolution reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the registered owner of this Series 1995B Bond, and the rights, obligations and duties of the District, for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the existing combined and consolidated waterworks and sewer system of the District (said existing combined and consolidated waterworks and sewer system, together with said extensions, additions and improvements, being hereinafter referred to as the "System").


This Series 1995B Bond is issued on a parity as to security and source of payment with the Series 1995A Bonds and with certain outstanding Black Mountain Utility District Water and Sewer Revenue Bonds of 1988, dated March 25, 1993 (the "Bonds of 1988"), authorized by a Resolution enacted by the Commission of the District on January 17, 1989 (the "1988 Bond Resolution"); and the outstanding Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1994, dated December 15, 1994 (the "Bonds of 1994"), authorized by an Resolution enacted by the Commission of the District on September 13, 1994 (the "1994 Bond Resolution") [hereinafter the Bonds of 1988 and the Bonds of 1994 shall be collectively referred to as the "Prior Bonds", and the 1988 Bond Resolution and the 1994 Bond Resolution shall be collectively referred to as the "Prior Bond Resolution"]. Accordingly, this Series 1995B Bond, together with the Prior Bonds, the Series 1995A Bonds and any bonds ranking on a parity herewith, is payable from and secured on a first lien basis by a pledge of the gross revenues to be derived from the operation of the System.

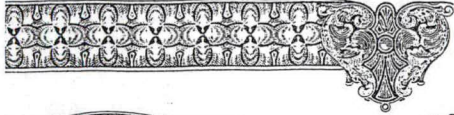
[FURTHER PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF]

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Series 1995B Bond, do exist, have happened and have been performed in due time, form and manner as required by law, and that the face amount of this Series 1995B Bond, together with all other obligations of the District, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, said Black Mountain Utility District, by its Board of Commissioners, has caused this Series 1995B Bond to be executed by its Chairman, its corporate seal to be hereunto affixed, and attested by its Secretary, on the date of this Series 1995B Bond, which is **September 7, 1995.**

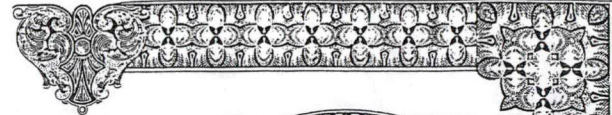
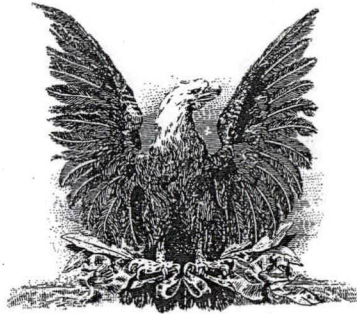
Attest: 
Secretary

BLACK MOUNTAIN UTILITY DISTRICT
Harlan County, Kentucky
By: 
Chairman



NUMBER
AR-1

er of this Bond has consented to the issuance of
000 of bonds ranking on a parity as to security
nce of payment with this Bond.



DOLLARS
\$356,000

UNITED STATES OF AMERICA - COMMONWEALTH OF KENTUCKY - COUNTY OF HARLAN

BLACK MOUNTAIN UTILITY DISTRICT

WATER AND SEWER REVENUE BONDS, SERIES 1994A

INTEREST RATE: 4.50%

KNOW ALL MEN BY THESE PRESENTS: That the Black Mountain Utility District (the "District"), acting by and through its Board of Commissioners (the "Commission"), a public body corporate in Harlan County, Kentucky, for value received, hereby promises to pay to UNITED STATES OF AMERICA - FARMERS HOME ADMINISTRATION, 771 Corporate Drive, Suite 200, Lexington, Kentucky 40503-5477, the registered owner hereof, or to its registered assigns, solely from the fund hereinafter identified, the sum of

THREE HUNDRED FIFTY-SIX THOUSAND DOLLARS (\$356,000),

as follows, on the first day of January, in years and installments as follows:

Year	Principal	Year	Principal	Year	Principal
1997	\$3,500	2010	\$ 6,000	2023	\$12,000
1998	3,500	2011	6,500	2024	12,000
1999	3,500	2012	7,000	2025	13,000
2000	4,000	2013	7,000	2026	13,500
2001	4,000	2014	7,500	2027	14,500
2002	4,000	2015	8,000	2028	15,000
2003	4,500	2016	8,500	2029	15,500
2004	4,500	2017	8,500	2030	16,500
2005	5,000	2018	9,500	2031	17,500
2006	5,000	2019	9,500	2032	18,500
2007	5,500	2020	10,000	2033	19,500
2008	5,500	2021	10,500	2034	20,500
2009	6,000	2022	11,000		

in the manner, solely from said fund, to pay interest on the balance of said principal sum from time to time remaining unpaid, at the interest rate specified above, semiannually on the first days of January and July in each year, beginning with the first January or July after the date of the issuance of this 1994A Bond, until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable to the principal and interest being payable, without deduction for exchange or collection charges, in lawful money of the United States of America, at the address of the registered owner shown on the registration book of the District.

This Series 1994A Bond is issued by the District in conjunction with \$98,000 of the District's Water and Sewer Revenue Bonds, Series 1994B (the "1994B Bonds") under and in full compliance with the Constitution and Statutes of the Commonwealth of Kentucky, including Chapters 4 of the Kentucky Revised Statutes (collectively the "Act"), and pursuant to a duly adopted Bond Resolution of the District authorizing same

(the "Current Bond Resolution"), to which Current Bond Resolution reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the registered owner of this Series 1994A Bond, and the rights, obligations and duties of the District, for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the existing combined and consolidated waterworks and sewer system of the District (said existing combined and consolidated waterworks and sewer system, together with said extensions, additions and improvements, being hereinafter referred to as the "System").

This Series 1994A Bond ranks on a parity as to security and source of payment with the Series 1994B Bonds and with certain outstanding Black Mountain Utility District Water and Sewer Revenue Bonds of 1988, dated March 25, 1993 (the "Prior Bonds"), authorized by a Resolution adopted by the Commission of the District on January 17, 1989 (the "Prior Bond Resolution"). Accordingly, this Series 1994A Bond, together with any bonds ranking on a parity herewith, is payable from and secured on a parity lien basis by a pledge of the revenues to be derived from the operation of the System.

This Series 1994A Bond has been issued in full compliance with the Current Bond Resolution and the Prior Bond Resolution, and this Series 1994A Bond, and any bonds ranking on a parity therewith that may be issued and outstanding under the conditions and restrictions of the Current Bond Resolution and the Prior Bond Resolution, are and will continue to be payable from revenues which shall be set aside in a fund for that purpose and identified as the "Black Mountain Utility District Water and Sewer Revenue Bond and Interest Sinking Fund", created in the Prior Bond Resolution.

FURTHER PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in connection with the issuance of this Series 1994A Bond, do exist, have happened and have been performed in due time, form and manner as required by law, and that the face amount of this Series 1994A Bond, together with all other obligations of the District, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

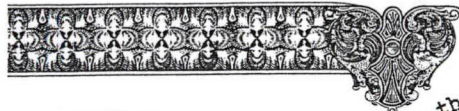
IN WITNESS WHEREOF said Black Mountain Utility District, by its Board of Commissioners, has caused this Series 1994A Bond to be executed by its Chairman, its corporate seal to be hereunto affixed, and attested by its Secretary, on the date of this Series 1994A Bond, which is

December 15, 1994

BLACK MOUNTAIN UTILITY DISTRICT
Harlan County, Kentucky

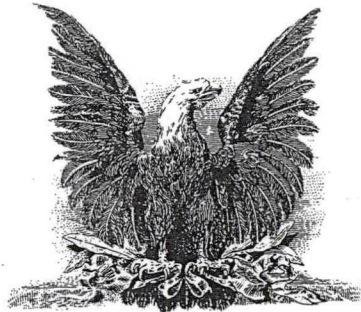
Walter Taylor J.
Secretary

By *Edley Penley*
Chairman



NUMBER
BR-1

Order of this Bond has consented to the issuance of \$98,000 of bonds ranking on a parity as to security source of payment with this Bond.

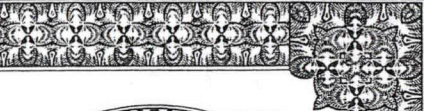


UNITED STATES OF AMERICA - COMMONWEALTH OF KENTUCKY - COUNTY OF HARLAN

BLACK MOUNTAIN UTILITY DISTRICT

WATER AND SEWER REVENUE BONDS, SERIES 1994B

INTEREST RATE: 4.50%



DOLLARS
\$98,000

KNOW ALL MEN BY THESE PRESENTS: That the Black Mountain Utility District (the "District"), acting by and through its Board of Commissioners (the "Commission"), a public body corporate in Harlan County, Kentucky, for value received, hereby promises to pay to UNITED STATES OF AMERICA - FARMERS HOME ADMINISTRATION, 771 Corporate Drive, Suite 200, Lexington, Kentucky 40503-5477, the registered owner, or to its registered assigns, solely from the fund hereinafter identified, the sum of

NINETY-EIGHT THOUSAND DOLLARS (\$98,000),

as follows, in years and installments as follows:

Year	Principal	Year	Principal	Year	Principal
1997	\$1,000	2010	\$1,800	2023	\$3,200
1998	1,100	2011	1,900	2024	3,300
1999	1,100	2012	2,000	2025	3,500
2000	1,200	2013	2,000	2026	3,600
2001	1,200	2014	2,200	2027	3,800
2002	1,300	2015	2,200	2028	4,000
2003	1,300	2016	2,400	2029	4,200
2004	1,400	2017	2,400	2030	4,300
2005	1,400	2018	2,600	2031	4,600
2006	1,500	2019	2,700	2032	4,800
2007	1,600	2020	2,800	2033	5,000
2008	1,600	2021	2,900	2034	5,200
2009	1,800	2022	3,100		

in the manner, solely from said fund, to pay interest on the balance of said principal sum from time to time remaining unpaid, at the interest rate specified above, semiannually on the first days of January and July in each year, beginning with the first January or July after the date of this Series 1994B Bond, until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable to the principal and interest being payable, without deduction for exchange or collection charges, in lawful money of the United States of America at the address of the registered owner shown on the registration book of the District.

This Series 1994B Bond is issued by the District in conjunction with \$356,000 of the District's Water and Sewer Revenue Bonds, Series 1994A (the "1994A Bonds") under and in full compliance with the Constitution and Statutes of the Commonwealth of Kentucky, including Chapters 4 of the Kentucky Revised Statutes (collectively the "Act"), and pursuant to a duly adopted Bond Resolution of the District authorizing same

(the "Current Bond Resolution"), to which Current Bond Resolution reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the registered owner of this Series 1994B Bond, and the rights, obligations and duties of the District, for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the existing combined and consolidated waterworks and sewer system of the District (said existing combined and consolidated waterworks and sewer system, together with said extensions, additions and improvements, being hereinafter referred to as the "System").

This Series 1994B Bond ranks on a parity as to security and source of payment with the Series 1994A Bonds and with certain outstanding Black Mountain Utility District Water and Sewer Revenue Bonds of 1988, dated March 25, 1993 (the "Prior Bonds"), authorized by a Resolution adopted by the Commission of the District on January 17, 1989 (the "Prior Bond Resolution"). Accordingly, this Series 1994B Bond, together with any bonds ranking on a parity herewith, is payable from and secured on a parity lien basis by a pledge of the revenues to be derived from the operation of the System.

This Series 1994B Bond has been issued in full compliance with the Current Bond Resolution and the Prior Bond Resolution; and this Series 1994B Bond, and any bonds ranking on a parity therewith that may be issued and outstanding under the conditions and restrictions of the Current Bond Resolution and the Prior Bond Resolution, are and will continue to be payable from revenues which shall be set aside in a fund for that purpose and identified as the "Black Mountain Utility District Water and Sewer Revenue Bond and Interest Sinking Fund", created in the Prior Bond Resolution.

FURTHER PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Series 1994B Bond, do exist, have happened and have been performed in due time, form and manner as required by law, and that the face amount of this Series 1994B Bond, together with all other obligations of the District, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

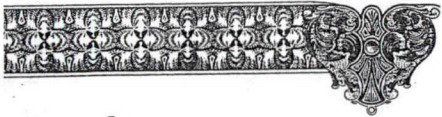
IN WITNESS WHEREOF said Black Mountain Utility District, by its Board of Commissioners, has caused this Series 1994B Bond to be executed by its Chairman, its corporate seal to be hereunto affixed, and attested by its Secretary, on the date of this Series 1994B Bond, which is

December 15, 1994

BLACK MOUNTAIN UTILITY DISTRICT
Harlan County, Kentucky

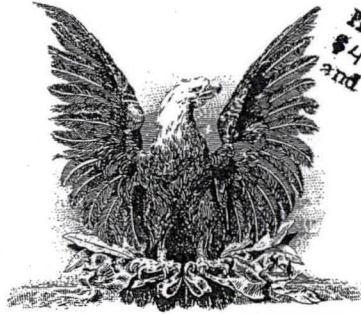
Alle Saylor Jr.
Secretary

By *Eddy Penley*
Chairman



NUMBER
R-1

Holder of this Bond has consented to the issuance of \$454,000 of bonds ranking on a parity as to security and source of payment with this Bond.



UNITED STATES OF AMERICA - COMMONWEALTH OF KENTUCKY - HARLAN COUNTY

BLACK MOUNTAIN UTILITY DISTRICT

WATER AND SEWER REVENUE BONDS OF 1988
ANNUAL INTEREST RATE: 5%

DOLLARS
\$150,000

Holder of this Bond has consented to the issuance of \$454,000 of bonds ranking on a parity as to security and source of payment with this Bond.

NOW ALL MEN BY THESE PRESENTS: That the Black Mountain Utility District (the "District"), acting by and through its Board of Commissioners, a public body corporate, organized and existing pursuant to Chapter 74 of the Kentucky Revised Statutes, in Harlan County, Kentucky, for value received, hereby promises to pay to UNITED STATES OF AMERICA, FARMERS HOME ADMINISTRATION, 771 Corporate Drive, 200, Lexington, Kentucky 40503-5477, the registered owner hereof, or to its registered assigns, solely from the special fund hereinafter identified, the sum of

ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000)

first day of January, in years and installments as follows:

Year	Principal	Year	Principal	Year	Principal
1995	\$1,000	2008	\$2,500	2021	\$5,000
1996	1,500	2009	3,000	2022	5,000
1997	1,500	2010	3,000	2023	5,500
1998	1,500	2011	3,000	2024	5,500
1999	1,500	2012	3,000	2025	6,000
2000	2,000	2013	3,500	2026	6,500
2001	2,000	2014	3,500	2027	6,500
2002	2,000	2015	4,000	2028	7,000
2003	2,000	2016	4,000	2029	7,500
2004	2,000	2017	4,000	2030	7,500
2005	2,500	2018	4,500	2031	8,000
2006	2,500	2019	4,500	2032	8,500
2007	2,500	2020	4,500		

like manner, solely from said special fund, to pay interest on the balance of said principal sum from time to time unpaid, at the Interest Rate specified above, semiannually on the first days of January and July in each year until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and are applicable hereto, both principal and interest being payable, without deduction for exchange or collection

charges, in lawful money of the United States of America, at the address of the registered owner shown on the registration book of the District.

This Bond is issued by the District pursuant to the Constitution and Statutes of the Commonwealth of Kentucky, including Chapter 74 and Sections 58.010 through 58.140 of the Kentucky Revised Statutes (the "Act"), and pursuant to a duly adopted Bond Resolution of the District (the "Bond Resolution"), to which Bond Resolution reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the registered owner of this Bond, and the rights, obligations, and duties of the District, for the purpose of financing the cost (not otherwise provided) of the acquisition and construction of the District's new waterworks system and a sewer system, which systems have been combined and consolidated in the Bond Resolution into a single, combined and consolidated, revenue-producing public project or system (the "System").

FURTHER PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF.

This Bond is exempt from taxation in the Commonwealth of Kentucky.

It is hereby certified, recited, and declared that all acts, conditions, and things required to exist, happen, and be performed, precedent to and in the issuance of this Bond, do exist, have happened, and have been performed, in due time, form, and manner as required by law and that the face amount of this Bond, together with all other obligations of the District, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

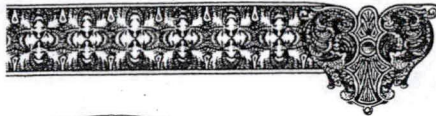
IN WITNESS WHEREOF, said Black Mountain Utility District, in the Commonwealth of Kentucky, by its Board of Commissioners, has caused this Bond to be executed by its Chairman, its corporate seal to be hereunto affixed, and attested by its Secretary, on the date of this Bond, which is March 25, 1993.

BLACK MOUNTAIN UTILITY DISTRICT
Harlan County, Kentucky

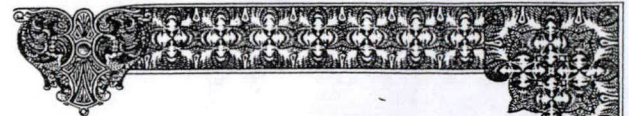
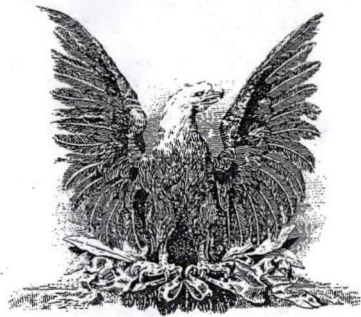
Loney Toller
Secretary

By *Arnold S. [Signature]*
Chairman





NUMBER
R-1



DOLLARS
\$296,000

UNITED STATES OF AMERICA — COMMONWEALTH OF KENTUCKY — COUNTY OF HARLAN

CITY OF WALLINS CREEK

WATERWORKS REVENUE BOND OF 1988

ANNUAL INTEREST RATE: 5%

NOW ALL MEN BY THESE PRESENTS: That the City of Wallins Creek, acting by and through its Commission, a public body corporate in Harlan County, Kentucky, for value received, hereby promises to pay to ED STATES OF AMERICA FARMERS HOME ADMINISTRATION, the registered owner hereof, or to its registered assigns, solely from the special fund hereinafter identified, the sum of

TWO HUNDRED NINETY-SIX THOUSAND DOLLARS (\$296,000)

on the first day of January, in years and installments as follows:

Year	Principal	Year	Principal	Year	Principal
1990	\$3,000	2003	\$5,000	2016	\$10,000
1991	3,000	2004	6,000	2017	10,000
1992	3,000	2005	6,000	2018	11,000
1993	3,000	2006	6,000	2019	11,000
1994	3,000	2007	6,000	2020	12,000
1995	4,000	2008	7,000	2021	13,000
1996	4,000	2009	7,000	2022	13,000
1997	4,000	2010	7,000	2023	13,000
1998	4,000	2011	8,000	2024	14,000
1999	4,000	2012	8,000	2025	15,000
2000	5,000	2013	9,000	2026	15,000
2001	5,000	2014	9,000	2027	16,000
2002	5,000	2015	9,000		

without deduction for exchange or collection charges, in lawful money of the United States of America; in like manner, solely from said special fund, to pay interest on the balance of said principal sum from time to time remaining unpaid, in like coin or currency, at the Annual Interest Rate specified above, annually on the first days of January and July in each year hereafter until said sum is paid, except as otherwise provided hereinafter set forth with respect to prepayment may be and become applicable hereto, both

principal and interest being payable, without deduction for exchange or collection charges, in lawful money of the United States of America, to the registered owner hereof, at the address shown on the registration book of the City.

This Bond is issued by the City pursuant to the Constitution and Statutes of the Commonwealth of Kentucky, including Chapter 106 and Section 82.082 of the Kentucky Revised Statutes, and pursuant to a duly enacted Bond Ordinance of the City, to which Bond Ordinance reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the holder or registered owner of this Bond, and the rights, obligations, and duties of the City, for the purpose of financing the cost (not otherwise provided) of the construction of a new municipal waterworks system (the "System") for the City.

FURTHER PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF.

This Bond is exempt from taxation in the Commonwealth of Kentucky.

It is hereby certified, recited, and declared that all acts, conditions, and things required to exist, happen, and be performed precedent to and in the issuance of this Bond, do exist, have happened, and have been performed in due time, form, and manner as required by law and that the face amount of this Bond, together with all other obligations of the City, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, said City of Wallins Creek, in the Commonwealth of Kentucky, by its Commission, has caused this Bond to be executed by the Mayor of said City, its corporate seal to be hereunto affixed, and attested by its City Clerk, on the date of this Bond, which is August 24, 1988.

t:

CITY OF WALLINS CREEK, KENTUCKY

Linda Long
City Clerk

By *Walter Bailey*
Mayor



COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF BLACK MOUNTAIN)	
UTILITY DISTRICT AND THE COUNTY OF HARLAN)	CASE NO.
FOR APPROVAL OF ASSUMPTION OF DEBT)	2006-00531
ASSOCIATED WITH THE ACQUISITION OF THE)	
WATER SYSTEM OF THE CITY OF WALLINS)	

ORDER

On December 1, 2006, Black Mountain Water District ("Black Mountain") filed an application for Commission approval to assume the Waterworks Revenue Bonds of 1988 in the name of the city of Wallins, Kentucky ("Wallins"), issued by the U.S. Department of Agriculture, Rural Development ("RD"). Black Mountain will assume the obligations of these bonds as a direct result of Wallins transferring its water utility assets to Black Mountain.

The Commission, after considering the evidence of record and being otherwise sufficiently advised, finds that:

1. Through the execution of the "Asset Purchase and Debt Assignment Agreement," as included in Black Mountain's application at Exhibit 2, between Wallins, Black Mountain, and the Harlan County Fiscal Court all of the rights, interest, and title to Wallins' water utility assets will be transferred to Black Mountain.

2. Wallins is not a regulated utility as defined by KRS 278.010 and as such its transfer of assets does not require the Commission's explicit approval.

3. KRS 278.300 requires Black Mountain to obtain Commission approval prior to the assumption of Wallins' RD bonds.

4. The original amount of the Wallins' RD bonds was \$296,000 which accrued interest at a rate of 5 percent per annum on the unpaid principal balance with the last principal retirement scheduled for 2027.

5. The anticipated outstanding bond principal balance at the asset transfer date is \$232,000.¹

6. Black Mountain will be required to make bond principal retirements as originally scheduled for Wallins and the annual rate of interest accruing on all unpaid principal will continue to be the original rate of 5 percent per annum.

7. RD supports the proposed transfer of Wallins' water utility assets and assumption of related waterworks revenue bonds by Black Mountain.²

8. The General Assembly of the Commonwealth of Kentucky has determined that mergers and acquisitions such as the one proposed between the parties of this case are in the public's interest.³

9. Subsequent to the asset transfer the customers formerly served by Wallins will be subject to Black Mountain's tariff on file with this Commission and will be assessed the rates for service as designated "Water Rate A" in that tariff.

¹ See Appendix A of this Order for the scheduled principal retirements.

² See Application, Exhibit 5.

³ See KRS 74.631.

IT IS THEREFORE ORDERED that Black Mountain is authorized to assume and repay Wallins' 1988 waterworks revenue bonds which remain outstanding at the time of the water utility asset transfer as described herein.

Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized to be transferred and assumed herein.

Done at Frankfort, Kentucky, this 21st day of December, 2006.

By Commission

ATTEST:



Executive Director

Case No. 2006-00531

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2006-00531 DATED December 21, 2006

Schedule of RD Bond Principal Retirements for Wallins as Assumed by Black Mountain

Year	Amount
2006	\$6,000
2007	8,000
2008	7,000
2009	7,000
2010	7,000
2011	8,000
2012	8,000
2013	9,000
2014	9,000
2015	9,000
2016	10,000
2017	10,000
2018	11,000
2019	11,000
2020	12,000
2021	13,000
2022	13,000
2023	13,000
2024	14,000
2025	15,000
2026	16,000
2027	<u>16,000</u>
Total	<u>\$232,000</u>

BOND ORDINANCE

001-88 A

CITY OF WALLINS CREEK, KENTUCKY

WATERWORKS REVENUE BONDS OF 1988

IN THE AMOUNT OF

\$296,000

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BOND ORDINANCE

CITY OF WALLINS CREEK, KENTUCKY

ORDINANCE OF THE CITY OF WALLINS CREEK, HARLAN COUNTY, KENTUCKY, AUTHORIZING THE CONSTRUCTION OF A NEW MUNICIPAL WATERWORKS SYSTEM AND ALL APPURTENANT FACILITIES; AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SALE OF TWO HUNDRED NINETY-SIX THOUSAND DOLLARS (\$296,000) PRINCIPAL AMOUNT OF CITY OF WALLINS CREEK WATERWORKS REVENUE BONDS OF 1988, FOR THE PURPOSE OF FINANCING THE COST (NOT OTHERWISE PROVIDED) OF THE AFORESAID CONSTRUCTION; SETTING FORTH THE TERMS AND CONDITIONS UPON WHICH SAID BONDS MAY BE ISSUED AND OUTSTANDING; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS AND THE ENFORCEMENT THEREOF; AND PROVIDING FOR AN ADVERTISED, PUBLIC, COMPETITIVE SALE OF SAID BONDS.

WHEREAS, the City of Wallins Creek, a sixth class City of Harlan County, Kentucky, has no central waterworks system and it is necessary for the preservation of the health and welfare of the citizens of said City that the City provide for the construction of a new waterworks system (the "System") in accordance with certain plans and specifications prepared by Vaughn & Melton Consulting Engineers, 109 South 24th Street, P.O. Box 1425, Middlesboro, Kentucky 40963, now on file in the office of the City Clerk of said City, and

WHEREAS, it is the desire and intent of this City Commission at this time to adopt this Ordinance pursuant to the provisions of Chapter 106 and Section 82.082 of the Kentucky Revised Statutes, to authorize and provide for the issuance of revenue bonds (the "Bonds") in the principal amount of \$296,000, for the purpose of financing the cost (not otherwise provided) of the System for the City and to prescribe the covenants of the City, the rights of bondowners, and the details of the issuance and sale of said Bonds, and

WHEREAS, the proceeds of said Bonds will be supplemented by an approved Federal (FmHA) grant in the approximate amount of \$709,600, together with waterworks connection charges in the amount of \$52,400, of which amount (a) at least \$22,400 is to be deposited into the Construction Account, (b) \$20,000 is to be deposited into the Initial Operation and Maintenance Reserve Fund, and (c) \$10,000 is to be deposited into the Operation and Maintenance Fund,

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF WALLINS CREEK, KENTUCKY, AS FOLLOWS:

ARTICLE 1.

DEFINITIONS; PURPOSE; NEW WATERWORKS SYSTEM;
AUTHORITY; AUTHORIZATION OF BONDS.

SECTION 101. DEFINITIONS.

As used in this Ordinance, unless the context requires otherwise:

"ACT" refers to Chapter 106 and Section 82.082 of the Kentucky Revised Statutes, as amended.

"BEGINNING MONTH" means the month following the month in which the waterworks system is completed and becomes revenue-producing, as certified by the Engineers.

"BEGINNING MONTH" means the month following the month in which the Bonds are issued, sold, and delivered to the purchaser thereof.

"BOND," "OWNER," "HOLDER," and "PERSON" shall include the plural as well as the singular number unless the context shall otherwise indicate.

"BONDHOLDER" or "BONDOWNER" means and contemplates, unless the context otherwise indicates, the registered owner(s) of the Bonds at the time issued and outstanding hereunder, or any of them.

"BONDS" or "CURRENT BONDS" means any of the Bonds of the original authorized issue of \$296,000, specifically authorized by this Ordinance.

"CITY" refers to the City of Wallins Creek, in Harlan County, Kentucky.

"COMMISSION" means the Commission of the City of Wallins Creek, in Harlan County, Kentucky, or such other body as shall be the governing body of said City under the laws of Kentucky at any given time.

"DEPOSITORY BANK" means the bank which shall serve as the depository of all of the various funds created in this Ordinance, which bank is the Harlan National Bank, Harlan, Kentucky, or its successor.

"ENGINEER" or "ENGINEERS" means the engineers or any one of them, who prepared the plans and specifications for the construction of the System and who will supervise the construction thereof, and shall be deemed to refer to the firm of Vaughn & Melton Consulting Engineers, 109 South 24th Street, P.O. Box 1425, Middlesboro, Kentucky 40963, or a member of said firm, or their successors or successor.

"FmHA" means the Farmers Home Administration of the Department of Agriculture of the United States Government.

Page 3
Missing

SECTION 102. PURPOSE; CONSTRUCTION OF WATERWORKS SYSTEM; CONSTRUCTION AWARD APPROVED.

The City shall construct the new waterworks System, which is generally described in the plans, specifications, and report prepared by Vaughn & Melton Consulting Engineers, 109 South 24th Street, P.O. Box 1425, Middlesboro, Kentucky 40963, now on file with the City Clerk of the City.

The City Commission hereby authorizes, approves, ratifies and confirms its previous action in awarding the contracts for the Construction Project to the lowest and best bidders and further approves the action of the City officials in entering into formal contracts with said bidders, subject to the necessary approvals being obtained. Authority is hereby given for undertaking the Construction Project according to the aforesaid plans and specifications, after all necessary approvals have been obtained.

SECTION 103. DECLARATION OF PERIOD OF USEFULNESS; DECLARATION OF REVENUE-PRODUCING PUBLIC PROJECT OR SYSTEM.

The City Commission hereby declares (a) that the period of usefulness of the proposed new System is more than forty (40) years from the date of completion thereof, (b) that the System constitutes a revenue-producing public project or System under the Act, and (c) so long as any of the Bonds authorized herein shall be Outstanding, the City shall operate the System as a revenue-producing System under the Act.

SECTION 104. AUTHORIZATION OF BONDS.

It has been heretofore determined that the total cost of the Construction Project, including preliminary expenses, land and rights-of-way, engineering expense, capitalized interest during construction, legal and administrative costs, publication costs, and all incidental expenses, will be not exceeding \$1,058,000. Accordingly, it is hereby determined to be necessary in order for the City to finance the cost of the new System that the City issue a total of \$296,000 of Bonds, based on the following calculation:

TOTAL COST OF CONSTRUCTION PROJECT		\$1,058,000
LESS:		
FmHA Grant	\$709,600	
Connection Charges	<u>52,400</u>	
Total Non-Bond Funds		<u>762,000</u>
BALANCE, TO BE FINANCED BY BONDS		\$ 296,000

Accordingly, for the purpose of financing the cost (not otherwise provided) of the Construction Project; under the provisions of the Act, there are hereby authorized to be issued and sold Two Hundred Ninety-Six Thousand Dollars (\$296,000) principal amount of City of Wallins Creek Waterworks Revenue Bonds of 1988.

All of said Bonds shall be dated as of the date of delivery to the purchaser thereof, shall bear interest from such date at such rate as may be fixed by supplemental resolution as a result of the advertised sale and competitive bidding for such Bonds, as hereinafter provided, and shall be issued and delivered according to the form of "Fully Registered Bond," as prescribed in Section 205 hereof.

Interest on the Bonds shall be payable semiannually on January 1 and July 1 of each year, provided that the first interest payment period will cover interest only from the date of delivery of the Bonds to the ensuing January 1 or July 1, as the case may be. Principal installments on the Bonds shall be payable on January 1 of each of the respective years until maturity, as set out in Section 201 hereof.

SECTION 105. BONDS PAYABLE OUT OF GROSS REVENUES AND SECURED BY FIRST STATUTORY MORTGAGE LIEN.

All of said Bonds, together with the interest thereon, and any additional Parity Bonds that may be issued under the conditions and restrictions hereinafter set forth, shall be secured by a first pledge of and payable solely out of the gross revenues of the System, shall be a valid claim of the owners thereof against the Sinking Fund created for the benefit of such owners, and shall be further secured by a first statutory mortgage lien against the System, as provided by the Act.

SECTION 106. LIEN ON CONTRACT.

In addition to the revenue pledge and statutory mortgage lien securing the Bonds, a first lien is hereby created and granted in favor of the Bonds on all contracts and on all other rights of the City pertaining to the System, enforceable by assignment to any Receiver or other operator proceeding by authority of any court.

ARTICLE 2.

THE BONDS; REGISTERED BONDS; PRINCIPAL INSTALLMENTS;
EXECUTION; PREPAYMENT: AND BOND FORM.

SECTION 201. PRINCIPAL INSTALLMENTS.

Principal installments due on the Bonds shall be as follows:

Principal
Payments Due
January 1,

Principal
Installments

1990	\$ 3,000
1991	3,000
1992	3,000
1993	3,000
1994	3,000
1995	4,000
1996	4,000
1997	4,000
1998	4,000
1999	4,000
2000	5,000
2001	5,000
2002	5,000
2003	5,000
2004	6,000
2005	6,000
2006	6,000
2007	6,000
2008	7,000
2009	7,000
2010	7,000
2001	8,000
2012	8,000
2013	9,000
2014	9,000
2015	9,000
2016	10,000
2017	10,000
2018	11,000
2019	11,000
2020	12,000
2021	13,000
2022	13,000
2023	13,000
2024	14,000
2025	15,000
2026	15,000
2027	16,000

SECTION 202. ISSUANCE OF BOND(S); NUMBERING.

The purchaser of the Bonds at the public sale shall take delivery of the Bonds in the form of a single or a series of Fully Registered Bonds, as prescribed in Section 205 below, amounting in the aggregate to the principal amount of the Bonds authorized herein, maturing as to principal in installments as set out above. Such Fully Registered Bond(s) shall be numbered R-1 (and consecutively thereafter, R-2, etc.), shall be of type composition, shall be on paper of sufficient weight and strength to prevent deterioration until the last day of maturity of any installment of principal as stated therein, and shall conform in size to standard practice. Such Fully Registered Bond(s) shall, upon appropriate execution on behalf of the City as prescribed, constitute the entire bond issue herein authorized, shall be negotiable (subject to registration requirements as to transferability), without interest coupons, registered as to principal and interest, payable as directed by the registered owner, and shall be in substantially the form hereinafter set forth.

SECTION 203. PLACE OF PAYMENT AND MANNER OF EXECUTION.

Both principal of and interest on the Bonds shall be payable at the place and in the manner set out in the form of Fully Registered Bond prescribed in Section 205 below. The Bonds shall be executed on behalf of the City by being signed manually by the Mayor, with the Corporate Seal of the City affixed thereto and attested by the manual signature of the City Clerk.

If either of the officers whose signatures appear on the Bonds ceases to be such officers before delivery of said Bonds, such signatures shall nevertheless be valid for all purposes the same as if such officers had remained in office until delivery.

SECTION 204. PROVISIONS AS TO PREPAYMENT.

Except when all of the Bonds are held by the Government, installments of principal falling due prior to January 1, 1999, shall not be subject to prepayment. Installments of principal falling due on and after January 1, 1999, shall be subject to prepayment by said City on any interest payment date falling on and after January 1, 1998, upon terms of par plus accrued interest, without any prepayment penalty.

So long as all of the Bonds are held by the Government, all or any of the Bonds, or installments in a multiple of \$1,000, may be prepaid at any time in inverse chronological order of installments due at face amount plus accrued interest without any prepayment penalty.

SECTION 205. BOND FORM.

The Bonds shall be in substantially the following form, with appropriate insertions, omissions, and variations consistent with or as provided or permitted in this Ordinance.

(FORM OF FULLY REGISTERED BOND)

BOND NUMBER R-1
UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
COUNTY OF HARLAN
CITY OF WALLINS CREEK
WATERWORKS REVENUE BOND OF 1988

NO. R-1

ANNUAL INTEREST RATE:

\$296,000

KNOW ALL MEN BY THESE PRESENTS:

That the City of Wallins Creek, acting by and through its Commission, a public body corporate in Harlan County, Kentucky, for value received, hereby promises to pay to

the registered owner hereof, or to its registered assigns, solely from the special fund hereinafter identified, the sum of

TWO HUNDRED NINETY-SIX THOUSAND DOLLARS (\$296,000)

on the first day of January, in years and installments as follows:

<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>
-------------	------------------	-------------	------------------	-------------	------------------

(Here the printer of the Bond will print the maturities of the Bond purchased by the individual purchaser (registered owner)).

without deduction for exchange or collection charges, in lawful money of the United States of America; and in like manner, solely from said special fund, to pay interest on the balance of said principal sum from time to time remaining unpaid, in like coin or currency, at the Annual Interest Rate specified above, semiannually on the first days of January and July in each year hereafter until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable hereto, both principal and interest being payable, without deduction for exchange or collection charges, in lawful money of the United States of America, to the registered owner hereof, at the address shown on the registration book of the City.

This Bond* is issued by the City pursuant to the Constitution and Statutes of the Commonwealth of Kentucky, including Chapter 106 and Section 82.082 of the Kentucky Revised Statutes, and pursuant to a duly enacted Bond

*If more than one Fully Registered Bond is issued, all references to "this Bond" will be changed to "these Bonds."

Bond Ordinance of the City, to which Bond Ordinance reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the holder or registered owner of this Bond, and the rights, obligations, and duties of the City, for the purpose of financing the cost (not otherwise provided) of the construction of a new municipal waterworks system (the "System") for the City.

This Bond, with the interest hereon, is payable from and secured by a first pledge of the gross income and revenues to be derived from the operation of the System, a sufficient portion of which income and revenues to pay the principal of and interest on this Bond and any additional parity bonds, has been ordered set aside as a special fund and pledged for that purpose and identified as the "City of Wallins Creek Waterworks Revenue Bond and Interest Sinking Fund."

The City has reserved the right to issue additional bonds ranking on a parity as to security and source of payment with this Bond, to finance future extensions, additions, and/or improvements to the System, provided the necessary showings as to the earnings coverage required by the Bond Ordinance are in existence and properly certified.

This Bond does not in any manner constitute an indebtedness of the City within the meaning of the Statutes and Constitution of Kentucky, but is payable solely out of the revenues of the System, and the City is not and shall not be obligated to pay this Bond or the interest hereon except from said special fund. The City, acting by and through its Commission, covenants that so long as this Bond is outstanding, the System will be continuously owned and operated by the City as a revenue-producing undertaking, within the meaning of the aforesaid Statutes, for the security and source of payment of this Bond, and that the City will fix and revise such rates and charges for the services and facilities of the System and collect and account for the income and revenues therefrom sufficient to pay the principal of and interest on this Bond promptly as the same become due, to pay the cost of operation and maintenance of the System, and to provide for the depreciation thereof.

This Bond shall be registered as to principal and interest in the name of the owner hereof, after which it shall be transferable only upon presentation to the City Clerk as the Bond Registrar, with a written assignment duly acknowledged by the registered owner or his duly authorized attorney, which assignment shall be noted upon this Bond and upon the book of the City kept for that purpose.

The City, at its option, shall have the right to prepay, on any interest payment date on and after January 1, 1998, in the inverse chronological order of the installments due on this Bond, the entire principal amount of this Bond then remaining unpaid, or such lesser portion thereof, in a multiple of One Thousand Dollars (\$1,000), as the City may determine, at a price in an amount equivalent to the principal amount to be prepaid plus accrued interest to the date of prepayment, without any prepayment premium. Notice of such prepayment shall be given by registered mail to the registered owner of this Bond or his assignee, at least thirty days prior to the date fixed for prepayment. Notice of such prepayment may be waived with the written consent of the registered owner of this Bond.

So long as the registered owner of this Bond is the United States Government, or any agency thereof, the entire principal amount of this Bond, or installments in a multiple of \$1,000, may be prepaid at any time in inverse chronological order of the installments due.

A first statutory mortgage lien upon the System is created by Section 106.080 of the Kentucky Revised Statutes and by the aforesaid Bond Ordinance, to and in favor of the registered owner of this Bond, and same is hereby recognized as valid and binding; and said System and all appurtenances thereof and extensions thereto shall remain subject to said statutory mortgage lien until payment in full of the principal of and interest on this Bond.

Upon default in the payment of any principal or interest payment on this Bond or upon failure by the City to comply with any other provision of this Bond or with the provisions of the Bond Ordinance, the registered owner may, at his option, institute all rights and remedies provided by law or by said Ordinance.

This Bond is exempt from taxation in the Commonwealth of Kentucky.

It is hereby certified, recited, and declared that all acts, conditions, and things required to exist, happen, and be performed precedent to and in the issuance of this Bond, do exist, have happened, and have been performed in due time, form, and manner as required by law and that the face amount of this Bond, together with all other obligations of the City, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, said City of Wallins Creek, in the Commonwealth of Kentucky, by its Commission, has caused this Bond to be executed by the Mayor of said City, its corporate seal to be hereunto affixed, and attested by its City Clerk, on the date of this Bond, which is

CITY OF WALLINS CREEK, KENTUCKY

By _____
Mayor

Attest:

City Clerk

(Seal of City)

PROVISION FOR REGISTRATION

This Bond shall be registered on the registration book of the City kept for that purpose by the City Clerk, as Bond Registrar, upon presentation hereof to said City Clerk, who shall make notation of such registration in the registration blank, and this Bond may thereafter be transferred only upon written transfer acknowledged by the registered owner or his attorney, such transfer to be made on said book and endorsed hereon.

Date of Registration	Name and Address of Registered Owner	Signature of City Clerk of the City of Wallins Creek, Kentucky, Bond Registrar
:		:
:		:
:		:
:		:
:		:

(FORM OF ASSIGNMENT)

For value received, this Bond is hereby assigned, without recourse and subject to all of its terms and conditions, unto _____, this _____ day of _____, _____.

By: _____

ARTICLE 3.

CONSTRUCTION ACCOUNT; SUPPLEMENTAL FUNDS; INTERIM
FINANCING; INVESTMENT OF PROCEEDS; AND FEDERAL
ARBITRAGE LIMITATIONS.

SECTION 301. THE CONSTRUCTION ACCOUNT; FIDELITY BOND OF
TREASURER; APPLICATION OF PROCEEDS OF BONDS.

The City Treasurer shall be the custodian of all funds belonging to and associated with the waterworks System, and such funds shall be deposited in the Harlan National Bank, Harlan, Kentucky (the "Depository Bank"), which bank is a member of the Federal Deposit Insurance Corporation. All moneys in excess of the amount insured by the FDIC in the Construction Account (hereinafter created) shall be secured by the Depository Bank in accordance with the U. S. Treasury Department Circular No. 176.

The Treasurer and/or other City officials shall execute a Fidelity Bond in the amount of not less than \$30,000, which Fidelity Bond shall be effective and secured by a surety company approved by the Farmers Home Administration of the United States Department of Agriculture so long as it is the holder of any of the Bonds; and the FmHA and the City shall be named co-obligees in such surety bond, and the amount thereof shall not be reduced without the written consent of the FmHA; provided that whenever sums in the various accounts referred to herein (other than the Construction Account) shall exceed \$30,000, the Fidelity Bond shall be increased accordingly as requested by and with the approval of the FmHA. The City will segregate and earmark its various funds, consistent with this Ordinance, in such a manner as to enable the City to obtain the lowest possible surety premium rate on such Fidelity Bond.

A. Covenants Applicable if FmHA Purchases Bonds.

It is acknowledged that all covenants herein with reference to the necessity for approval of the FmHA, the necessity of observing FmHA procedure, and the necessity of using FmHA Forms, shall apply only if the FmHA is the purchaser of the Bonds and only so long as the FmHA holds the Bonds thereafter. In the event that the FmHA shall not be the purchaser of the Bonds, or, after purchasing same, shall sell or transfer the Bonds to a nongovernmental holder, all covenants herein with reference to the necessity for approval of the FmHA, the necessity of observing FmHA procedure, and the necessity of using FmHA Forms, shall be inapplicable.

B. Application of Proceeds of Bonds.

The proceeds of said \$296,000 of Bonds shall be applied as follows:

(1) Immediate Repayment of Interim Financing.

There shall immediately be paid an amount sufficient to pay the interest on and principal of any temporary loans (if any) borrowed by the City in anticipation of the sale and delivery of the Bonds and/or of the receipt of grant proceeds, or the interest on and principal of such temporary loans may be

paid simultaneously with the delivery of the Bonds (to the extent of part or all of the proceeds of the Bonds, as may be required by said Bank(s) and/or by the FmHA), in which event the amount to be so deposited into the Construction Account shall be reduced by such amount so paid. Also, at the time of delivery of the Bonds, there shall be paid all amounts then due and payable in connection with the costs of the Construction Project and in connection with the issuance of the Bonds.

(2) Balance to be Deposited in Construction Account; Proceeds of FmHA Grant to be Deposited in Construction Account; Connection Charges to be Deposited in Construction Account.

If and to the extent that the proceeds of the Bonds shall be in excess of the amount necessary to pay the interest, principal, and costs referred to in Subparagraph (1) of this Section, such excess amount shall immediately be deposited in the "City of Wallins Creek Waterworks Construction Account" (the "Construction Account"), hereby created, which shall be established at the Depository Bank. There shall also be deposited in said Construction Account the proceeds of said Federal grant as and when received, or said grant proceeds may be applied, to the extent necessary, to liquidate or reduce any interim financing owed by the City at the time of receipt of grant proceeds. Simultaneously with or prior to the delivery of the Bonds, there shall also be deposited in the Construction Account the proceeds of connection charges in the minimum amount of \$22,400 (less any amounts theretofore used for authorized purposes), to supplement the proceeds of the Bonds and grant in order to assure completion of the System. The remaining \$30,000 of such connection charges are allocated to the Initial Operation and Maintenance Reserve Fund (\$20,000) and to the Operation and Maintenance Fund (\$10,000) as hereinafter provided in Section 401.

(3) Procedure for Withdrawal of Funds from the Construction Account.

(a) Prior to the expenditure by the City of any funds from the Construction Account derived from the proceeds of the Bonds, the City must obtain written approval from the FmHA as to such expenditures. The proceeds of said Account shall be withdrawn only on checks signed by the City Treasurer, in payment for services and/or materials supplied in connection with the acquisition and construction of the System, as evidenced by (1) a certification of the Engineers designated herein, and (2) written approval of the Mayor (or by such other official of the City as may be authorized by the Governing Body).

(b) Prior to the expenditure by the City of any funds from the Construction Account derived from interim financing or from multiple advances from the FmHA, the City must obtain approved invoices and/or Partial Payment Estimates bearing the written approval of the Contractor, the Engineer, and the Mayor, and which invoices and/or Partial Payment Estimates must have been reviewed and approved for payment by the designated FmHA official.

(c) Written approval of the Engineers shall not be required for matters not under the jurisdiction of the Engineers, such as legal fees, land acquisition, and related items. Executed certifications (authorizing

payment) shall be retained by the City Treasurer and need not be furnished to the Depository Bank, which shall be authorized to honor checks signed by the City Treasurer.

During construction, the District shall disburse project funds in a manner consistent with FmHA Instruction 1942.17 (p) (5) of Appendix "A" to FmHA Instruction 1942-A. Form FmHA 424-18, "Partial Payment Estimate" or similar form approved by FmHA, shall be used for the purpose of documenting periodic construction estimates, and shall be submitted to FmHA for review and acceptance. Form SF-271, "Outlay Report and Request for Reimbursement for Construction Programs," shall be prepared and submitted to FmHA to account for funds expended in the last 30 day period.

After the Bonds are delivered, the District shall prepare and submit Form SF-272, "Report of Federal Cash Transactions," to report the status of federal cash received during each prior monthly period. Form FmHA 440-11, "Estimate of Funds Needed for 30 Day Period Commencing _____," will be prepared by the District and submitted to FmHA in order that a periodic Advance of Federal Cash may be requested. Form FmHA 440-11 and SF-272 will be submitted to FmHA simultaneously.

Periodic Audits of the City's Construction Account records shall be made by FmHA as determined by it to be necessary.

(4) Transfer of Capitalized Interest to Sinking Fund.

There shall be transferred from the Construction Account an amount sufficient to provide for capitalized interest (initially estimated at \$20,000) during the construction of the System, less whatever amount shall have been theretofore applied to pay interest on interim financing of the System, as approved by the Engineers and by the FmHA. If and to the extent not theretofore expended in paying interest on interim financing and if and to the extent then needed to pay interest during the remaining period of construction of the System, such amount so transferred from the Construction Account shall be deposited in the Sinking Fund hereinafter created.

(5) Investment of Funds in Construction Account.

Pending disbursement of amounts on deposit in the Construction Account, all such funds, or such portion of said amounts on deposit in said Construction Account as is designated by the Governing Body, shall be invested for the benefit of such Construction Account in Certificates of Time Deposit, savings accounts, or U. S. Obligations which may be converted readily into cash, having a maturity date prior to the date when the sums invested will be needed for costs of the System (as certified by the Engineers and/or by the representative of the FmHA), provided that to the extent that any amounts on deposit in said Depository Bank shall cause the total deposits of the City in said Bank to exceed the amount insured by the FDIC, the same shall be continuously secured by a valid pledge of U. S. Obligations, having an equivalent market value, in conformity with KRS 66.480. Investments in Certificates of Time Deposit may be made only if a separate FmHA Form 402-4 Agreement is executed, if the FmHA has purchased any of the Bonds, and investments in

Certificates of Deposit or savings accounts may be made only in such Certificates or accounts of an FDIC bank. Any such investments will be a part of the Construction Account, and income from such investments will be credited to the Construction Account. All such investments shall be subject to the limitations set out in Section 303 hereof.

(6) Statements of Contractors, Engineers, and Attorneys as to Payment Required Prior to Delivery of Current Bonds, if Current Bonds Purchased by FmHA.

Prior to the delivery of the Bonds, if the FmHA is the purchaser of the Bonds, the City will be required to provide FmHA with statements from the Contractors, Engineers, and Attorneys that they have been paid to date in accordance with their contracts or other agreements and, in the case of any Contractor, that he has paid his suppliers and sub-contractors. Any exceptions must be authorized under FmHA Instructions 1942-A, Subsection 1942.17 (n) (2).

(7) Disposition of Balance in Construction Account After Completion of Project.

When the construction of the waterworks System has been completed and all construction costs have been paid in full, as certified by the Engineers for the City and/or by the FmHA, any balance then remaining in the Construction Account may, with the consent of the State Director of the FmHA, be applied to the cost of constructing extensions, additions, and/or improvements to the System, and/or such balance (subject to legal requirements as to possible refund of any allocated portion of the balance derived from grant proceeds) shall be transferred to the Sinking Fund hereinafter created, whereupon said Construction Account shall be closed. If such additional construction is to be undertaken by the contractor previously engaged in the construction of the System, such additional work may be authorized by a change order. Such balance so transferred shall be used by the City immediately to prepay installments due on the Bonds, provided further that any balance insufficient to prepay at least \$1,000 of the principal payment falling due in any year on the Bonds, will be transferred to the Depreciation Reserve Fund hereinafter created.

SECTION 302. INTERIM FINANCING AUTHORIZATION.

(a) Commercial Interim Financing.

The City shall use commercial interim financing for the System during construction of that portion of the System financed by the Bonds, if available at reasonable rates and terms.

The borrowing of up to the aggregate sum of \$296,000 from the Harlan National Bank, Harlan, Kentucky (either alone or through its correspondent bank), the Kentucky Pollution Abatement Authority and/or from any other interim lender (hereinafter collectively and individually referred to as the "Banks") is hereby authorized; and the Mayor of the City is hereby authorized to execute in the name and on behalf of the City (1) a single note (the "Note") in the amount of the interim loan with provision for advances against the amount of such Note, or (2) any number of notes ("Notes"), in such form as may be

prescribed by the lending Banks, including Revenue Bond Anticipation Notes pursuant to KRS 58.150. Each advance or Note shall evidence a loan of cash funds by the Banks to the City, for services rendered and/or materials supplied in connection with the construction of the waterworks System, as evidenced by (i) a certification of the Engineers designated herein, (ii) written approval of the Mayor or by such other official of the City as may be authorized by the Governing Body, and (iii) written approval of the FmHA; provided, however, that written approval of the Engineers shall not be required for matters not under the jurisdiction of the Engineers, such as legal fees, land acquisition, and related items.

Interim financing shall be disbursed as follows:

(A) At the request of the City, the Banks are and shall be authorized to disburse the proceeds of any such Note or Notes by cashier's checks directly to the parties entitled thereto based on the certification specified herein; or

(B) At the request of the City, the Banks are and shall be authorized to deposit the proceeds of such Notes in the Construction Account, in which event amounts of the City on deposit therein shall, until expended, to the extent that same shall exceed the amount insured by the FDIC, be fully secured by a pledge of U. S. Obligations, and a Fidelity Bond in an amount equal to not less than the maximum amount deposited in such Account must be furnished by the proper official of the City, as provided in Section 301 hereof.

The authority hereby given to the Mayor includes the execution of renewal Notes in evidence of the renewal and extension of Notes becoming due, provided the aggregate of the principal amount of all such Notes outstanding and payable to the Banks shall not exceed \$296,000, and provided each Note which is renewed or superseded is simultaneously cancelled by the Banks and transmitted to the City Treasurer.

Authority is hereby given for said total authorized interim financing of \$296,000 to be the maximum indebtedness which the City may owe to said Banks at any given time; provided, however, that the City may reduce the amount owed by the City to said Banks from time to time as and when funds are available to the City, whether derived from the proceeds of the Federal grant, the proceeds of the sale of said Bonds, or otherwise, and may reborrow from said Banks additional amounts in anticipation of the further receipt by the City of additional proceeds from said grant or Bonds in order thus to enable the City to save interest costs by applying the proceeds of said Bonds and/or grant or other funds as received and which are not immediately needed for the payment of costs of the construction of the System, toward the liquidation and/or reduction of said interim financing loans until such time as additional interim financing loans are needed to provide additional funds for costs of said System, as required by the City, subject to the limitation that the total amount owed to said Banks at any given time shall not be in excess of \$296,000.

The City hereby covenants and agrees with said Banks that upon the issuance and delivery of said Bonds, and/or the receipt of said Federal grant, the City will apply the proceeds thereof, to whatever extent may be necessary, in payment of the principal amount of all such Note or Notes of the City then held by said Banks, together with interest thereon to the date of such payment; and the first proceeds of said Bonds are hereby pledged therefor, and such pledge shall constitute a first and prior charge against said proceeds. The City further pledges the first proceeds of the gross revenues of the System to the payment of said interim financing.

Although the proceeds of the Current Bonds and grant are pledged to the repayment of said interim financing, it is recognized that the proceeds of the grant may be applied to the extent required at the time of receipt of the proceeds of said grant, to the payment of costs of the Construction Project due and owing by the City at the time of receipt of such proceeds, rather than to the repayment of portions of the interim financing at that time. If and to the extent that the proceeds of said grant are in excess of any costs of the Construction Project due and owing at the time of receipt thereof, such proceeds may be applied, in the same manner as hereinabove indicated, to the reduction of the amount of the interim financing, after which, such interim financing may again be increased as theretofore. In any event, the proceeds of said grant and of any other grants earmarked for the Construction Project, are pledged, together with the proceeds of the Current Bonds, to the repayment of such interim financing.

It is understood that the foregoing constitutes an alternative method of obtaining interim financing, and does not preclude the authorization, public advertisement, and sale of Bond Anticipation Notes, Grant Anticipation Notes, and/or Bond and Grant Anticipation Notes, to the most favorable bidder on the open market, by concurrent or subsequent proceedings of the City.

(b) Possible Multiple Advances by FmHA if Bonds Shall be Purchased by FmHA.

In the event the Bonds are purchased by the FmHA, and in the event the City is unable to obtain a commitment for commercial interim financing for the System during construction from any Bank at reasonable rates and terms, the Mayor is authorized to request multiple advances ("Multiple Advances") of loan funds from the FmHA.

If the FmHA agrees to make Multiple Advances to the City pending the delivery of the Bonds, the Mayor is hereby authorized to execute in the name and on behalf of the City any number of Bond Anticipation Notes, each Note evidencing an advance of funds by the FmHA to the City, such Note or Notes to be in the form prescribed by the FmHA.

Each request for an advance from the FmHA shall be accompanied by (1) a certification of the Engineers designated herein, and (2) written approval of the Mayor or by such other official of the City as may be authorized by the Governing Body; provided, however, that written approval of the Engineers shall not be required for matters not under the jurisdiction of the Engineers, such as legal fees, land acquisition, and related items. The City will also furnish to the FmHA, prior to the receipt of each such advance,

whatever additional documentation shall be requested by the FmHA, including a Supplemental Title Opinion (updated) of Local Counsel and a Supplemental Preliminary Legal Opinion (updated) of Bond Counsel.

The proceeds of any Multiple Advances made by the FmHA shall either be (1) disbursed directly to the parties entitled thereto for services and/or materials supplied in connection with the Construction Project, or (2) deposited into the Construction Account and disbursed in accordance with the provisions of Section 301B(3) hereof, in which event amounts of the City on deposit in such Account shall, until expended, to the extent that same shall exceed the amount insured by the FDIC, be fully secured by a pledge of the U.S. Obligations (without the use of a Deposit Agreement of the FmHA, unless requested by the FmHA), and a Fidelity Bond in an amount equal to not less than the maximum amount deposited in such Account must be furnished by the proper official of the City, as provided in Section 301 hereof.

The first proceeds of the Bonds are hereby pledged to the repayment of such Multiple Advances, and such pledge shall constitute a first and prior pledge against such proceeds. The City further pledges the proceeds of the revenues of the System to the repayment of said Multiple Advances.

SECTION 303. LIMITATIONS ON INVESTMENTS OF FUNDS.

The City covenants and certifies, in compliance with Federal arbitrage regulations, as follows:

(a) The City certifies, on the basis of known facts and circumstances in existence on the date of adoption of this Bond Ordinance, that it is not expected that the proceeds of the Bonds or the revenues of the System will be used in a manner which would cause such Bonds to be arbitrage bonds. The City covenants to the purchasers and/or holders of the Bonds that (1) the City will make no use of the proceeds of said Bonds, which, if such use had been reasonably expected on the date of issue of such Bonds, would have caused such Bonds to be arbitrage bonds, and (2) that the City will comply with (i) all of the requirements of Section 103(c) of the Internal Revenue Code, and (ii) all of the requirements of the applicable Income Tax Regulations thereunder, to whatever extent is necessary to assure that the Bonds shall not be treated as arbitrage bonds.

(b) The City certifies, based on information furnished by the Engineers, on known facts and reasonable expectations at this time, as follows:

(1) that the City has entered into contracts with the Engineers in connection with the construction of the Construction Project financed by the Bonds, and the fees to be paid to such Engineers will exceed (i) the sum of \$100,000, or (ii) an amount equal to 2-1/2% of the total cost of the project;

(2) that work on the Construction Project has commenced or will commence within six months from the date of issuance of the Bonds or from the date of the first interim financing loan made under this Ordinance, whichever occurs first;

(3) that the construction of the Project will proceed thereafter to completion with due diligence on the part of the City;

(4) that at least 95% of the spendable proceeds of the Bonds will be expended on the costs of the Construction Project within less than three years from the date of issuance of the Bonds or from the alternate date referred to in (b) (2) above;

(5) that it is anticipated that amounts on deposit in the Sinking Fund will be used within thirteen (13) months from the date of deposit for the payment of debt service on the Outstanding Bonds; and except for an amount equal to not more than the greater of (a) one-twelfth (1/12) of debt service requirements of the Bonds for the then ensuing year, or (b) one year's earnings on the Sinking Fund, the Sinking Fund will be depleted annually through such application, for current debt service requirements of the Bonds;

(6) that it is not anticipated that amounts will be accumulated in any reserve fund anticipated to be used for debt service on the Outstanding Bonds in excess of an amount reasonably required to sell the Current Bonds; however, in no event shall such amount exceed the lesser of (i) the maximum annual debt service, (ii) 1.25 times the average annual debt service for principal and interest on the Outstanding Bonds, or (iii) 10% of the face amount (par) of any Outstanding Bonds, and it is not anticipated that an amount in excess of 10% of the proceeds (or any amount of the proceeds) from the sale of the Current Bonds will be deposited in any such reserve fund;

(7) that it is not reasonably anticipated that amounts accumulated in the Depreciation Fund will be used for payment of debt service on any Outstanding Bonds, even though such Fund will be so available if necessary to prevent a default in the payment of principal and interest on such bonds;

(8) that the original proceeds of the issue will not exceed by more than five percent (5%) (or by any percent) the amount required (after deducting the proceeds of the FmHA grant and the aforesaid connection charges), for the costs of the Construction Project; and there has therefore been no overissuance of the Bonds; and

(9) that the City has not been advised of any listing or contemplated listing by the Internal Revenue Service determining that such certification with respect to its obligations may not be relied on.

(c) The City covenants that neither the proceeds of the Bonds, nor "Non-Exempt Revenues of the System", as defined herein, will be invested in investments which will produce a net adjusted yield in excess of the net interest cost (effective yield) of the Bonds, if such investment would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 103(c)(2) of the Internal Revenue Code, as amended, and the applicable regulations thereunder; provided, however, that such proceeds and/or revenues may be

invested to whatever extent and whenever such Code and/or applicable Regulations permit same to be invested without causing the Current Bonds to be treated as "arbitrage bonds."

"Non-Exempt Revenues" within the meaning of the foregoing shall be deemed to refer to revenues of the System deposited in any of the funds earmarked for or reasonably expected to be used for the payment of debt service on the Outstanding Bonds, in excess of "Exempt Revenues," which Exempt Revenues are:

(1) amounts deposited in the Sinking Fund for the purpose of paying debt service on any Outstanding Bonds within 13 months from the date of deposit;

(2) amounts deposited in any reserve earmarked for or anticipated to be used for debt service on Outstanding Bonds, to the extent that such deposits do not cause the total amount amount of such reserves, deposits, and other excess Non-Exempt Reserves to exceed the limitations referred to in (c)(6) above for which adequate provision was made to obtain the appropriate exemption;

(3) amounts deposited in a Depreciation Fund, Reserve for Replacements, Operation and Maintenance Fund, or any other fund (however designated) reasonably expected to be used for extensions, additions, improvements, repairs, or replacements to the System, and not reasonably expected to be used to pay debt service (even if pledged to be used to pay debt service in the event of the unexpected inadequacy of other funds pledged for that purpose) of Outstanding Bonds.

If, and to the extent that any Non-Exempt Revenues are on deposit and are available for investment, such funds shall be subject to the investment limitation referred to in Section 303 above.

Accordingly it is anticipated that there will be no limitation on the permissible yield on investments made from the proceeds of the Current Bonds or from the revenues of the System.

Prior to or at the time of delivery of the Bonds, the Mayor and/or the City Treasurer is authorized to execute the appropriate certification with reference to the matters referred to above, setting out all known and contemplated facts (apart from legal conclusions) concerning such anticipated construction, expenditures and investments, including the execution of necessary and/or desirable certifications of the type contemplated by the "Proposed Arbitrage Regulations," as amended, in order to assure that interest on the Bonds will be exempt from all Federal income taxes and that the Bonds will not be treated as arbitrage bonds.

ARTICLE 4.

CREATION OF FUNDS.

SECTION 401. CREATION OF FUNDS.

The City covenants that beginning with the date of delivery of the Bonds, and so long as any of the Bonds and any additional Parity Bonds are issued and outstanding, all of the income and revenues of the System shall be deposited to the credit of a separate and special account designated as the "City of Wallins Creek Waterworks Revenue Fund" (the "Revenue Fund"), hereby created, which Fund shall be maintained at the Depository Bank named above, and said Fund shall be maintained and preserved so long as any of the Bonds are outstanding. The Revenue Fund shall then be expended, used, and apportioned by the City Treasurer, as follows:

A. Sinking Fund. At or after the time that the Bonds have been delivered, there shall be transferred from the Construction Account an amount sufficient (currently estimated at \$20,000) to provide for capitalized interest during the construction of the System, as approved by the Engineers and by the FmHA, if and to the extent not theretofore expended in paying interest on interim financing and if and to the extent then needed to pay interest during the remaining period of construction of the System. Such amount so transferred from the Construction Account, shall be deposited in the "City of Wallins Creek Waterworks Revenue Bond and Interest Sinking Fund" (the "Sinking Fund"), hereby created.

After the expiration of the month in which interest is last payable out of the sum set aside into the Sinking Fund as capitalized interest, there shall be transferred in each month from said Revenue Fund and deposited into said Sinking Fund on or before the 20th day of each month, for payment of interest on and principal of the Bonds, a sum equal to the total of the following:

- (1) An amount equal to one-sixth (or such larger amount as is necessary) of the next succeeding six-month interest installment to become due on the bonds, plus
- (2) Beginning in January, 1989, a sum equal to one-twelfth (or such larger amount as is necessary) of the principal of any Bonds maturing on the next succeeding January 1.

If the City for any reason shall fail to make any monthly deposits as required, then an amount equal to the deficiency shall be set apart and deposited into the Sinking Fund out of the first available revenues in the ensuing month or months, which amount shall be in addition to the monthly deposit otherwise required during such succeeding month or months. Whenever there shall accumulate in the Sinking Fund amounts in excess of the requirements during the next twelve months for paying the principal of and interest on outstanding Bonds as same fall due, such excess may be used for redemption of such Bonds prior to maturity, as set forth in Section 205 hereof.

B. Monthly Payments of Principal and Interest So Long as FmHA Holds or Insures All of the Bonds.

So long as all of the Bonds are held or insured by the FmHA, the City shall, if requested by the FmHA and/or by the insured owner, make payments of amounts equal to the total of (1) and (2) of subsection A above, being the total of the monthly principal and interest requirements on the Bonds, in monthly payments to said FmHA, or to the insured owner of the Bonds, out of said Sinking Fund; provided further that at the option of any other owner of all of the Bonds, such payments shall similarly be made in monthly payments to such other owner.

C. Initial Operation and Maintenance Reserve Fund. As specified in Section 301B(2) hereof, at or prior to the delivery of the Bonds there shall be deposited into the "Initial Operation and Maintenance Reserve Fund," hereby created, the sum of not less than \$20,000 derived from connection charges. Such Initial Operation and Maintenance Reserve Fund may be used by the District, proportionately over the first five years of operation of the waterworks System, upon appropriate certification by the Commission, when necessary, for the purpose of (1) making payments of principal and interest on the Bonds if the moneys on deposit in the Sinking Fund are not sufficient to make such payments; (2) meeting the requirements of this Ordinance for operation and maintenance of the System; and/or (3) making deposits to appropriate reserve accounts. However, if an emergency condition should occur during the first five (5) years of operation of the System, upon appropriate certification of the Commission and written consent by the FmHA, any funds remaining in such Initial Operation and Maintenance Reserve Fund at that time, may be used for the purpose of alleviating the emergency. At the end of such 5-year period, any sums remaining on deposit in such Initial Operation Reserve Fund shall be transferred into the Depreciation Reserve Fund, hereinafter created, and used for the same purposes as other sums in such Depreciation Reserve Fund.

D. Operation and Maintenance Fund. As specified in Section 301(b)(2), at or prior to the delivery of the Bonds there shall be deposited into the Operation and Maintenance Fund, hereby created, the sum of not less than \$10,000 (less any amounts thereof used for authorized purposes), derived from collected connection charges, to provide for the initial operation and maintenance of the System. After the transfers required in subsection A above have been made in each month, there shall next be transferred monthly from the Revenue Fund, as and when revenues of the System are available in said Revenue Fund, and deposited in the Operation and Maintenance Fund, sums sufficient to meet the current expenses of operating and maintaining the System. The balance maintained in said Fund shall not be in excess of the amount required to cover anticipated expenditures for a two-month period pursuant to the annual budget.

E. Depreciation Reserve Fund. After all of the transfers required in Paragraphs A and D above have been made, there shall next be transferred from the Revenue Fund to the Depreciation Reserve Fund, hereinafter referred to as the "Reserve Fund," the sum of \$150.00 each month until there is accumulated in such Reserve Fund the sum of \$18,000, after which no further deposits need be made into such Fund except to replace withdrawals. In addition to such monthly transfers from the Revenue Fund, there shall be deposited in said

Reserve Fund (a) all proceeds collected from potential customers (except the amounts necessary to pay the actual costs of the respective meters and service connections applicable to said potential customers), to aid in the financing of the cost of future extensions, additions, and/or improvements to such System; plus (b) the proceeds of any property damage insurance (not otherwise used to replace damaged or destroyed property); and any such amounts or proceeds so deposited shall be used solely and only for the purposes intended.

Moneys in the Reserve Fund may be withdrawn and used by the City, upon appropriate certification by the Board, for the purpose of paying the cost of unusual or extraordinary maintenance, repairs, renewals, and replacements not included in the annual budget of current expenses and/or paying the cost of constructing future extensions, additions, and/or improvements to the System which will either enhance its revenue-producing capacity or will provide a higher degree of service, and when necessary, for the purpose of making payments of principal and interest on the Bonds if the moneys on deposit in the Sinking Fund are not sufficient to make such payments.

All funds in said Sinking Fund and in said Reserve Fund shall be deposited in the Depository Bank, or such portion of said amounts on deposit in said respective Funds as is designated by the City Council shall be invested for the benefit of such respective Funds in Certificates of Time Deposit, savings accounts, or U. S. obligations which may be converted readily into cash, having a maturity date prior to the date when the sums invested will be needed for meeting interest and/or principal payments, to mature or be called, provided that to the extent that any amounts on deposit in said Bank shall cause the total deposits of the City in said Bank to exceed the amount insured by the FDIC, such excess amount shall be continuously secured by a valid pledge of U. S. Obligations, having an equivalent market value, in conformity with KRS 66.480. Investments in Certificates of Time Deposit may be made only if a separate FmHA Form 402-4 Agreement is executed, if the FmHA has purchased any of the Bonds. Any such investments will be a part of the respective Funds from which the proceeds invested are derived, and income from such investments will be credited to such respective Funds. All investments shall be subject to the applicable limitations set out in Section 303 above.

However, as is certified in Section 303 above, it is not reasonably anticipated that any amounts in the Depreciation Fund will be used to pay debt service on any bonds.

F. Excess Funds. Subject to the provisions for the disposition of the income and revenues of the System in subparagraphs A, D, and E of this section, which provisions are cumulative, and after paying or providing for the payment of debt service on any subordinate obligation, there shall be transferred within sixty days after the end of each calendar year, the balance of excess funds in the Revenue Fund on such date to the Depreciation Reserve Fund to be earmarked for the purpose of paying or financing the cost of future extensions, additions, and/or improvements to the System, or, at the option of the City, such excess funds may be applied to the maximum extent feasible, to the prepayment of installments of outstanding Bonds.

ARTICLE 5.

COVENANTS TO BONDHOLDERS

SECTION 501. RATES AND CHARGES.

All rates and charges for all services and facilities rendered by the System shall be reasonable and just, taking into account and consideration the cost and value of the System, the cost of maintaining, repairing, and operating the same and the amounts necessary for the retirement of all Bonds and the accruing interest on all Bonds, and there shall be charged such rates and charges as shall be adequate to meet the requirements of this and Section 401 above.

The City covenants that it will not reduce the rates and charges for the services rendered by the System without first filing with the City Clerk a certification of an Independent Consulting Engineer, as defined herein, to the effect that the annual net revenues (defined as gross revenues less essential operation and maintenance expenses) of the then existing System for the fiscal year preceding the year in which such reduction is proposed, as such annual revenues are adjusted, after taking into account the projected reduction in revenues anticipated to result from any such proposed rate decrease, are equal to not less than 120% of the annual debt service requirements for principal and interest on all of the then outstanding bonds payable from the revenues of the System, calculated in the manner specified in Section 604 hereof.

SECTION 502. BOOKS AND ACCOUNTS.

The City shall install and maintain proper records and accounts relating to the operation of the System and its financial affairs; and the owners of any of said Bonds, or their authorized representatives, shall have the right at all reasonable times to inspect the facilities and all records, accounts, and data relating thereto. An annual audit on a fiscal year basis shall be made of the books and accounts pertinent to said System by a Certified Public Accountant licensed in Kentucky. No later than sixty days after the close of each calendar year, copies of such audit reports certified by such Accountant shall be promptly mailed to the Government without request, so long as the Government is the owner of any of the Bonds, and to any bondowner that may have requested same in writing. Monthly operating reports shall be furnished to the FmHA and to any bondowner requesting same, during the first two years of operation and whenever and so long as the City is delinquent in any of the covenants set out herein. Quarterly operating reports shall be furnished to such parties at all other times.

SECTION 503. SYSTEM TO BE OPERATED ON FISCAL YEAR BASIS.

While any 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 June 30 of each succeeding year, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 60 days after the beginning of each fiscal year, beginning immediately after the issuance of these Bonds, the City and the Commission agree to cause to be prepared a

detailed statement of income and expenditure for the past year, a current financial statement and a "Proposed Annual Budget of Current Expenses" of the System for the then calendar year, itemized on the basis of monthly requirements. A copy of said "Proposed Annual Budget of Current Expenses" shall be mailed to any bondowner who may request in writing a copy of such Budget, and to the Government without request if the Government is the owner of any of said Bonds. If the owners of 50% in amount of the outstanding Bonds so request, the Commission shall hold an open hearing not later than thirty days before the beginning of the ensuing fiscal year, at which time any bondowner may appear by agent or attorney and may file written objections to such proposed budget. Notice of the time and place of such hearing shall be mailed at least 15 days prior to the hearing to each registered bondowner and to the Government.

The City and its Commission covenant that annually before the first day of September, the annual budget of current expenses for the then current fiscal year will be adopted substantially in accordance with the preliminary or proposed annual budget, and no expenditures for operation and maintenance expenses of said System in excess of the budget shall be made during such fiscal year unless directed by said Commission by a specific ordinance duly adopted.

SECTION 504. GENERAL COVENANTS.

The City through its Commission hereby covenants and agrees with the holder or holders of the Bonds that:

- (1) It will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the Commonwealth of Kentucky;
- (2) It will make and collect reasonable and sufficient rates and charges for services and facilities rendered by the System;
- (3) It will segregate the revenues and income from the System and make application thereof consistent with and as provided by this Ordinance;
- (4) Unless the written consent of the owners of a majority in amount of the outstanding Bonds has been obtained, it agrees not to sell, lease, mortgage, or in any manner dispose of any integral part of the System, including any and all appurtenances thereto and extensions, additions, and/or improvements that may be made thereto until all of said Bonds shall have been paid or provided for in full; subject to the provisions of Section 608 hereof;
- (5) It will maintain in good condition and continuously operate the System and appurtenances thereto and will charge such rates and charges for the services rendered thereby so that the gross income and revenues of the System will be sufficient at all times to pay the interest on and principal of the Bonds herein authorized and any Parity Bonds as same become due, to pay the costs and expenses of operating and maintaining the System, and to provide for an adequate depreciation account.

- (6) It shall carry and maintain insurance on properties of the System subject to loss or damage in amounts and against hazards substantially in accordance with the practices of other corporations which own and maintain waterworks systems under similar conditions; and it will, so long as the Government is the owner of any of such Bonds, list the Government as a co-beneficiary on any such policy; and the City shall further comply with all of the requirements of Section 506 hereof (involving insurance on motors, tanks, and structures).

SECTION 505. GENERAL COVENANTS APPLICABLE SO LONG AS FmHA HOLDS ANY BONDS; LOAN RESOLUTION.

So long as the FmHA shall hold any of the Bonds, the City shall comply with such regulations, requirements, and requests as shall be made by the FmHA, including the furnishing of operating and other financial statements in such form and substance and for such periods as may be requested by the FmHA, the carrying of insurance of such types and in such amounts as the FmHA may specify, with insurance carriers acceptable to the FmHA, and compliance with all of the terms and conditions of the Loan Resolution (FmHA Form 442-47) adopted and executed by the City, which is hereby authorized, approved, ratified, and affirmed.

SECTION 506. INSURANCE OF MOTORS, TANKS, AND STRUCTURES.

The City shall at the time of final acceptance of the Construction Project from the contractor(s), insure all electric motors, pumping stations, and other major structures of the entire System, in an amount recommended by the City's Engineers and approved by the FmHA, so long as the FmHA is the holder of any Bonds, for the hazards usually covered in such area, and shall similarly insure same in an amount recommended by the City's Engineers, without the necessity of approval by the FmHA if and whenever the City has Bonds outstanding against the System and such Bonds are not held by the FmHA.

ARTICLE 6.

STATUTORY MORTGAGE LIEN; INFERIOR BONDS AND PARITY BONDS.

SECTION 601. STATUTORY MORTGAGE LIEN.

For the further protection of the holders of the Bonds, a first statutory mortgage lien upon the System and all properties connected therewith, and all appurtenances thereof and extensions thereto, is granted and created by Section 106.080 of the Kentucky Revised Statutes and by this Ordinance, which statutory mortgage lien is hereby recognized and declared to be valid and binding upon the City and upon all of the properties constituting the System; and said lien shall take effect immediately upon the delivery of the Bonds authorized herein.

SECTION 602. INFERIOR BONDS..

Except as provided below in this Section, the City shall not, so long as any of the Current Bonds (and any bonds ranking on a parity) are outstanding, issue any additional bonds payable from the revenues of the System unless the security and/or pledge of the revenues and statutory mortgage lien to secure such additional bonds is made inferior and subordinate in all respects to the security of the Current Bonds and any Parity Bonds.

The City expressly reserves the right at any time or times to issue its bonds or other obligations payable from the revenues of the System and not ranking on a basis of equality with the Current Bonds without any proof of previous earnings or net revenues, provided the consent of the FmHA must be obtained prior to the issuance of any inferior bonds so long as the FmHA holds any of the Current Bonds or any Parity Bonds, and provided further that (after the initial construction of the System) such inferior bonds may be issued only for the purpose of providing for future extensions, additions, and/or improvements to the System, and only in express recognition of the priorities, liens, and rights created and existing for the security, source of payment, and protection of the Current Bonds and any Parity Bonds; provided, further, that nothing in this Section is intended to restrict or shall be construed as a restriction upon, the ordinary refunding of the Current Bonds and of such Parity Bonds.

SECTION 603. PARITY BONDS TO COMPLETE THE CONSTRUCTION PROJECT.

The City hereby certifies, covenants, and agrees that in the event that the costs of completion of the Construction Project, as hereinbefore described, shall exceed the moneys available to the City from any and all sources, the City shall have the right, if necessary, to provide for such excess, and only such excess, through the issuance of Parity Bonds, provided the City has complied with Section 604 below or has obtained a certification from the Engineers to the effect that it is necessary to issue the desired amount of additional Parity Bonds in order to enable the City to pay the cost (not otherwise provided) of the completion of the Construction Project, and provided the City has obtained (a) the consent of the Government, or (b) the consent of the owners of three-fourths (3/4) in principal amount of the Current Bonds outstanding, if the Current Bonds have been issued, sold, and delivered and are not held by the Government.

SECTION 604. PARITY BONDS TO FINANCE FUTURE EXTENSIONS, ADDITIONS, AND/OR IMPROVEMENTS; CONDITIONS OR SHOWINGS REQUIRED.

The City further reserves the right to add new waterworks and/or related auxiliary facilities and/or to finance future extensions, additions, and/or improvements to the System by the issuance of one or more additional series of bonds to be secured by a parity lien on and ratably payable from the revenues of the System, and also secured by a parity statutory mortgage lien on the System, provided:

(1) That the facility or facilities to be constructed from the proceeds of the additional Parity Bonds is or are made a part of the System and its or their revenues are pledged as additional security for the additional Parity Bonds and the outstanding Current Bonds.

(2) The City is in compliance with all covenants and undertakings in connection with the Current Bonds (and any Parity Bonds).

(3) The annual net revenues (defined as gross revenues less essential operation and maintenance expenses), of the then existing System for the fiscal year preceding the year in which such Parity Bonds are to be issued, shall equal at least one hundred twenty percent (120%) of the average annual debt service requirements for principal and interest on all outstanding bonds payable from the revenues of the System, including such requirements of both the Current Bonds and any Parity Bonds then outstanding plus the anticipated requirements of the additional Parity Bonds then proposed to be issued. The calculation of average annual debt service requirements of principal and interest on the additional bonds to be issued shall, regardless of whether such additional bonds are to be serial or term bonds, be determined on the basis of the principal of and interest on such Parity Bonds being payable in approximately equal annual installments.

(4) The "annual net revenues" referred to above may be adjusted for the purpose of the foregoing computations to reflect:

- (a) any revisions in the schedule of rates or charges being imposed for the services of the System at the time of the issuance of any such additional Parity Bonds, and
- (b) any increase in the "annual net revenues" to be realized from the proposed extensions, additions, and improvements to the System being financed (in whole or in part) by such additional Parity Bonds; provided all such adjustments shall be based upon and included in a certification of an Independent Consulting Engineer, as defined herein.

(5) Compliance with Section 604 (1) through (4) shall not be necessary for the issuance of Parity Bonds if the City has obtained the written consent of the FmHA for the issuance of such Parity Bonds, if the FmHA is the owner of all of the Current Bonds at the time of issuance of such Parity Bonds; or the written consent of the owners of three-fourths in amount of the then outstanding Current Bonds and any Parity Bonds. Provided that if the City obtains the written consent of the owners of all bonds outstanding against the System, no other prerequisite need be complied with by the City in order to issue Parity Bonds.

The additional Parity Bonds, the issuance of which is restricted and conditioned by this Section, shall be understood to mean bonds payable from the income and revenues of the System on a parity with the the Current Bonds and

any Parity Bonds, and shall not be deemed to include nor to prohibit the issuance of any other obligations, the security and source of payment of which is subordinate and subject to the priority of the required payments into the Sinking Fund maintained for the benefit of the Current Bonds.

SECTION 605. COVENANTS TO BE COMPLIED WITH AT TIME OF
ISSUANCE OF PARITY BONDS.

The City hereby covenants and agrees that in the event any additional Parity Bonds are issued, the City shall:

(1) Adjust the monthly deposits into the Sinking Fund on the same basis as that prescribed in the provisions establishing such Fund, to reflect the average annual debt service requirements on the additional Parity Bonds;

(2) Adjust the minimum annual amount to be deposited monthly into the Depreciation Reserve Fund on the same basis as that prescribed in the provisions establishing such Fund, taking into account the future replacement costs of the facilities to be constructed and acquired with the proceeds of such additional Parity Bonds; and

(3) Make such additional Parity Bonds payable as to principal on January 1 of each year in which principal falls due, and payable as to interest on January 1 and July 1 of each year until the final maturity of such Parity Bonds.

SECTION 606. PREPAYMENT PROVISIONS (CONDITIONS) APPLICABLE
TO PARITY BONDS.

If, in connection with any subsequently issued series of bonds secured by a parity lien on the revenues of the System, it is provided that excess revenues in the Revenue Fund shall be used to prepay bonds (or installments thereof) in advance of scheduled maturity, or if the City at its option undertakes to prepay outstanding bonds in advance of scheduled maturity, it is agreed and understood:

- (a) That prepayment of bonds will be applied to each series of bonds on an equal pro-rata basis (reflecting the proportion of the original amount of each series of bonds outstanding at the time of such call);
- (b) That prepayment of bonds for each series of bonds will be in accordance with the prepayment provisions of the respective series of bonds. Provided, however, the City shall have the right to prepay, subject to the prepayment provisions of the respective series of bonds, any or all outstanding bonds which may be prepaid at par prior to prepaying any bonds that are prepayable at a premium.

SECTION 607. CITY SHALL NOT ISSUE ANY FUTURE BONDS OR OBLIGATIONS AGAINST THE SYSTEM WITHOUT THE WRITTEN CONSENT OF THE FmHA, SO LONG AS FmHA HOLDS ANY BONDS AGAINST THE SYSTEM.

Notwithstanding any other provisions of this Ordinance, the City agrees that so long as the FmHA holds any bonds outstanding against and/or payable from the revenues of the System, the City will not issue any future Bonds, Notes, or other obligations against, secured by, or payable from the revenues of the System without the written consent of the FmHA.

SECTION 608. PRIORITY OF LIEN; PERMISSIBLE DISPOSITION OF SURPLUS OR OBSOLETE FACILITIES; CONDITIONS.

The City covenants and agrees that so long as any of the Current Bonds are outstanding, the City will not sell or otherwise dispose of any of the facilities of the System, or any part thereof, and, except as provided for above, the City will not create or permit to be created any charge or lien on the revenues thereof ranking equal or prior to the charge or lien of the Current Bonds. Notwithstanding the foregoing, the City may at any time permanently abandon the use of, or sell at the fair market value, any part of the facilities of the System, provided that:

- (a) It is in compliance with all covenants and undertakings in connection with all of the bonds then outstanding and payable from the revenues of the System, and the Sinking Fund (and/or Depreciation) Reserve(s), for such bonds has been fully established.
- (b) It will, in the event of any such sale, apply the proceeds to either (1) redemption of outstanding bonds in accordance with the provisions governing prepayment of bonds in advance of maturity, or (2) replacement of the facility so disposed of by another facility, the revenues of which shall be incorporated into the System, as hereinbefore provided;
- (c) It certifies, in good faith, prior to any abandonment of use, that the facility or facilities to be abandoned are no longer economically feasible of producing net revenues;
- (d) It certifies, in good faith, that the estimated net revenues of the remaining facilities of the System for the then next succeeding fiscal year, plus the estimated net revenues of the facility or facilities, if any, to be added to the System, comply with the earnings requirements hereinbefore provided in the provisions and conditions governing the issuance of additional Parity Bonds; and
- (e) Notwithstanding any other provisions hereof, so long as any of the Bonds are held by the United States Government, the City shall not dispose of its title to the System or to any part thereof, without first obtaining the written consent of the Government.

ARTICLE 7.

DEFAULT; CONSEQUENCES.

SECTION 701. EVENT OF DEFAULT.

The following items shall constitute an "event of default" on the part of the City:

- (a) The failure to pay principal of the Bonds when due and payable, either at maturity or by proceedings for redemption.
- (b) The failure to pay any installment of interest on the Bonds when the same shall become due and payable or within 30 days thereafter.
- (c) The failure to promptly repair, replace, or reconstruct facilities of the System that have been damaged and/or destroyed.
- (e) The entering of an order or decree with the consent or the acquiescence of the City appointing a receiver of all or any part of the System or any revenues thereof; or if such order or decree shall have been entered without the acquiescence or consent of the City, its failure to have the order vacated, discharged, or stayed on appeal within 60 days after entry.
- (f) The default by the City in the due or punctual performance of any of the covenants, conditions, agreements, and provisions contained in the Bonds or in this Ordinance.

SECTION 702. CONSEQUENCES OF ACT OF DEFAULT.

Any owner of the Bonds may enforce and compel the performance of all duties and obligations of the City as set forth herein. Upon the occurrence of an event of default, then upon the filing of a suit by any owner of said Bonds, any court having jurisdiction of the action may appoint a Receiver to administer the System on behalf of the City with power to charge and collect rates sufficient to provide for the payment of operating and maintenance and for the payment of principal of and interest on the Bonds, and to provide and apply the income and revenues of the System in conformity with this Ordinance and with the laws of the Commonwealth of Kentucky.

The City hereby agrees to transfer to any bona fide Receiver or other subsequent operator of the System, pursuant to any valid court order in a proceeding brought to enforce collection or payment of the City's obligations, all contracts and other rights of the City pertaining to the System, conditionally, for such time only as such Receiver or operator shall operate by authority of the Court. Upon the occurrence of an event of default, the owner of any of the Bonds may by injunction require the Governing Body of the City to raise the rates a reasonable amount, consistent with the requirements of this Ordinance.

ARTICLE 8.

CONTRACTUAL PROVISIONS; GRANT APPROVAL;
AND MISCELLANEOUS PROVISIONS.

SECTION 801. THIS ORDINANCE CONTRACTUAL WITH BONDHOLDERS.

The provisions of this Ordinance constitute a contract between the City and its Commission and the owners of the Bonds as may be outstanding from time to time; and after the issuance of any of said Bonds, no change, alteration, or variation of any kind of the provisions of this Ordinance shall be made in any manner which will affect an owner's rights except with the written consent of all bondowners until such time as all of said Bonds and the interest thereon have been paid in full or fully provided for; provided that the Governing Body of the City may adopt any Ordinance for any purpose not inconsistent with the terms of this Ordinance and which shall not impair the security of the owners of the Bonds and/or for the purpose of curing any ambiguity, or of curing, correcting, or supplementing any defective or inconsistent provisions contained herein or in any ordinance or other proceedings pertaining hereto; and provided further that the owners of seventy-five percent (75%) in principal amount of the Bonds at any time outstanding shall have the right to consent to, and approve the adoption of ordinances, orders, resolutions, or other proceedings, modifying or amending any of the terms or provisions contained in this Ordinance, subject to the conditions (a) that this Ordinance shall not be so modified in any manner that may adversely affect the rights of any certain owners without similarly affecting the rights of all owners of the Current Bonds (and any Parity Bonds) then outstanding, or to reduce the percentage of the number of owners whose consent is required to effect a further modification; and (b) no such change may be effected without the consent of the FmHA so long as the FmHA owns any of the Current Bonds.

SECTION 802. ALL BONDS OF THIS ISSUE ARE EQUAL.

The Bonds authorized herein shall not be entitled to priority one over the other in the application of the income and revenues of the System, or with respect to the security for their payment, regardless of the time or times of their issuance, it being the intention that there shall be no priority among the Bonds authorized by this Ordinance regardless of the fact they may be actually issued and delivered at different times.

SECTION 803. CITY OBLIGATED TO REFUND BONDS HELD BY
GOVERNMENT WHENEVER SAME IS FEASIBLE;
DEFEASEMENT PROHIBITED.

So long as the Government is the owner of any of the Bonds, if it appears to the Government that the City is able to refund such Bonds, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, or to sell bonds of the City in the open market, at reasonable rates and terms, for loans or bond issues for similar purposes and periods of time, the City will, upon request of the Government, obtain such loan and/or issue such bonds in sufficient amount to repay the Government, and will take all such action as may be required in connection with such loan.

Also, so long as the Government is the owner of any of the Current Bonds, the City shall not issue any bonds or other obligations for the purpose of defeasing or otherwise terminating the lien of the Current Bonds, without immediately repaying all of the then outstanding Current Bonds.

SECTION 804. ALTERNATE STATUTORY AUTHORITY.

If it shall ever be held that the City did not have the authority to issue the Bonds and/or to construct said waterworks System under the provisions of KRS Chapter 106, then this Ordinance shall be deemed to have been authorized under the provisions of KRS 96.350 through 96.510, inclusive, with the Bonds being secured by a statutory mortgage lien as provided in KRS 96.400.

SECTION 805. AUTHORIZATION OF THE USE OF CITY STREETS IN THE CONSTRUCTION AND MAINTENANCE OF THE WATERWORKS SYSTEM.

The use of all City streets, highways, alleys, and public ways for the construction and maintenance of the waterworks System, is hereby authorized, without the necessity of further permits, licenses, or other certifications from the City.

SECTION 806. APPROVAL AND ACCEPTANCE OF FmHA GRANT AGREEMENT.

As set out in Section 104 hereof, the FmHA has agreed to make a grant to the City in the amount of \$709,600 to supplement the proceeds of the Bonds in order to provide the total cost of the Construction Project, and in that connection the FmHA has requested the City to execute a certain Grant Agreement (FmHA Form 1942-31) setting out the terms and conditions upon which said grant will be made. Said Grant Agreement is hereby approved, and the Mayor and the City Clerk are authorized to accept and execute said Grant Agreement on behalf of the City. The Mayor and City Clerk are also authorized on behalf of the City to accept any and all other grants offered to the City in connection with the Construction Project and to execute any and all Grant Agreements and any other documents as may be requested by such agency in connection with grant(s) which have been and/or which may hereafter be approved for such Project, and/or any other agency which approves a grant to the City, with reference thereto.

SECTION 807. AUTHORIZATION, RATIFICATION, AND CONFIRMATION OF APPROVAL AND EXECUTION OF VARIOUS DOCUMENTS, INCLUDING LEGAL SERVICES AGREEMENTS OF BOND COUNSEL AND LOCAL COUNSEL; AGREEMENT FOR ENGINEERING SERVICES; LETTER OF INTENT TO MEET CONDITIONS OF LETTER OF CONDITIONS OF FmHA; AND LOAN RESOLUTION.

The City Council of the City hereby authorizes, approves, ratifies, and confirms the previous action of the officers of the City in approving and executing various documents related to the financing of the Project, including the following:

- (a) Legal Services Agreement with the firm of Rubin & Hays as Bond Counsel.
- (b) Legal Services Agreement with Robert Thomas as Local Counsel.
- (c) Letter of Intent to Meet Conditions of FmHA Letter of Conditions (FmHA Form 442-46).
- (d) Loan Resolution (FmHA Form 442-47).
- (e) Agreement for Engineering Services with Vaughn & Melton, Consulting Engineers.

SECTION 808. AUTHORIZATION OF CONDEMNATION TO ACQUIRE EASEMENTS AND/OR SITES.

In the event that (a) any necessary deeds of easement to allow water line construction over the property of any property owner or (b) any necessary deed to the necessary site of any water facility of the Project shall not be obtained through negotiation within 10 days after the date of enactment of this Ordinance and in the event that (1) such water lines cannot be located within the right-of-way of the State and/or County road involved, and/or (2) such water facilities cannot be located on a site already owned by the City, Local Counsel employed by the City is hereby authorized and directed to file condemnation actions to obtain such necessary rights-of-way and/or sites forthwith, without further authorization or direction from this Commission. Local Counsel is further directed to follow the same condemnation procedure in the event that it becomes necessary, through change orders, line extensions, and/or errors in the location of property lines and/or property owners, to obtain additional easements, rights-of-way, and/or sites for completion of the Project and whenever the necessary deed of easement and/or deed to site is not obtained by negotiation at least 20 days prior to the date on which construction is contemplated in or on the respective easement, right-of-way, and/or site.

The City further approves the payment from the funds available therefor (proceeds of Bonds, grant and/or other funds) allocated to the costs of the System to pay any judgment, award, or compromise, determined by Local Counsel with the acquiescence of this Commission, toward the costs of such easements, rights-of-way, and/or sites, provided, in each instance, that the payment of such funds to satisfy any judgment, award, or compromise, must first be approved by the FmHA; and this Commission further determines that if and to whatever extent the funds available from the proceeds of the Bonds, grant, and/or other funds shall be inadequate to pay any judgment, award, or compromise amount for such easements, rights-of-way, and/or sites, or if the City is unable to obtain the approval of the FmHA for such payments, the Commission shall take all reasonably necessary actions to make such additional amount available from all other available City resources.

ARTICLE 9.

SALE OF BONDS.

SECTION 901. SALE OF BONDS.

The Bonds shall be offered publicly for sale upon the basis of sealed, competitive bids at such time as the City Commission shall designate.

A suggested form of "Notice of Bond Sale", a suggested form of "Official Notice of Sale of Bonds", and a suggested form of "Bid Form", having been prepared in advance by Rubin & Hays, Municipal Bond Attorneys, Louisville, Kentucky, and a suggested form of Statement of Essential Facts having been prepared in advance by Vaughn & Melton Consulting Engineers, Middlesboro, Kentucky, and all of such documents having been found to be in satisfactory form, the same are hereby approved, and a copy of each is hereby ordered to be filed in the records of the City Clerk with the Minutes of the meeting at which this Ordinance is adopted. The Notice of Bond Sale shall be signed by the City Clerk and may be used for the purpose of publishing notice of the sale of the Bonds. Copies of such documents shall be furnished to any interested parties who may request same.

In the event that there is no bid or that all bids are rejected, the City may readvertise the sale pursuant to this Ordinance.

SECTION 902. POSSIBLE ADJUSTMENT IN DATE OF CURRENT BONDS, MATURITIES, PREPAYMENT PROVISION, AND OTHER DATES, WITH CONSENT OF PURCHASER IF DELIVERY IS DELAYED.

In the event that delivery of the Current Bonds authorized herein is delayed for any reason until after January 1, 1989 (or January 1, 1990), the name of the Bonds may, pursuant to Order adopted by the Governing Body of the City, with the written consent of the purchaser of the Bonds, be changed to "City of Wallins Creek Waterworks Revenue Bonds of 1989" (or "Bonds of 1990"), with maturities, the applicable prepayment date, and all other dates being adjusted accordingly.

ARTICLE 10.

CONCLUDING PROVISIONS.

SECTION 1001. COVENANT OF CITY TO TAKE ALL NECESSARY ACTION TO ASSURE COMPLIANCE WITH INTERNAL REVENUE CODE.

In order to assure the purchaser (and any subsequent owner) of the Current Bonds that such Current Bonds shall continue to be legal and that interest thereon will continue to be excludable from gross income for Federal tax purposes and exempt from Kentucky income taxation, the City covenants to and with the owners of the Current Bonds as follows:

(a) The City will (1) take all actions necessary to comply with the provisions of the Code, necessary to assure that interest on the Current Bonds will not be includable in gross income for Federal income tax purposes, (2) the City will take no actions which will violate any of the provisions of the Code, and (3) none of the proceeds of the Current Bonds will be used for any purpose which will cause interest on the Current Bonds to become includable in gross income for Federal income tax purposes.

(b) The City hereby designates the Current Bonds and any interim financing as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code, and the City hereby certifies that it does not reasonably anticipate that the total principal amount of qualified tax-exempt obligations which the City, or any subordinate entity of the City, will issue during the calendar year in which the Current Bonds and/or such interim financing are to be issued will exceed \$10,000,000; also the City certifies that these Bonds and any interim financing are not "private activity bonds" within the meaning of the Code.

(c) The City hereby certifies that neither the City nor any subordinate entity reasonably expects to issue more than \$5,000,000 of tax-exempt bonds (other than private activity bonds) during the calendar year in which the Current Bonds are to be issued and that 95% or more of the net proceeds of the Current Bonds are to be used for governmental activities of the City.

(d) Although the City has certified that neither the City, nor any subordinate entity of the City, reasonably expects to issue bonds or other obligations as a local bond within the meaning of Section 103(a) of the Code in a principal amount in excess of \$5,000,000 during the calendar year in which the Current Bonds and/or interim financing are to be issued, and that therefore, the funds created herein are not subject to the "rebate requirements" on excess earnings in favor of the United States of America imposed by Section 148(f) of the Code, the City covenants and agrees that in the event it is subsequently determined by the City, upon the advice of nationally recognized Bond Counsel, that the Construction Fund, or any other Fund established hereunder, is subject to said rebate requirements and does in fact generate earnings from "non-purpose investments" in excess of the amount which said investments would have earned at a rate equal to the "yield" on the Current Bonds, plus any income attributable to such excess, there shall be established a separate and special Fund with the Depository Bank or the

Construction Account Depository, or both, if applicable, which Fund shall be designated the "Excess Earnings and Rebate Fund", which shall be utilized for the collection and payment of any excess generated from investments and the remittance thereof to the United States on or before five years from the date of issue, and once every five years thereafter until the final retirement of the Current Bonds; the last installment, to the extent required, to be made no later than sixty days following the date on which funds sufficient for the complete retirement of the Current Bonds are deposited with the Depository Bank. The City further covenants to file any and all reports, if any, as may be required to be filed with the United States Government, with regard to the liability or non-liability of the City as to any such rebate requirements and to maintain records in regard thereto for the period of time required by applicable Treasury Regulations.

SECTION 1002. SEVERABILITY CLAUSE.

If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 1003. ALL PROVISIONS IN CONFLICT REPEALED.

All motions, ordinances, resolutions, and orders, or parts thereof, in conflict with the provisions of this Ordinance, are to the extent of such conflict hereby repealed. It is hereby specifically ordered and provided that any proceedings heretofore taken for the issuance of other Bonds of the City payable or secured in any manner by all or any part of the income and revenues of said System or any part thereof, and which have not been heretofore issued and delivered, are hereby revoked and rescinded, and none of such other bonds shall be issued and delivered. If part hereof is invalid, the remainder shall continue in effect. The City covenants to repeat any required procedure previously taken invalidly.

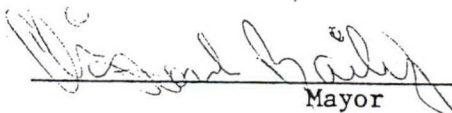
SECTION 1004. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall take effect and be effective ten days after its enactment in order to enable Notice of the enactment hereof to be published pursuant to KRS 106.250.

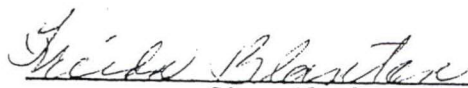
Introduced and given first reading on Feb. 8th., 1988.

Given second reading and enacted on Feb. 15th., 1988.

Attest:



Mayor



City Clerk

(Seal of City)

CERTIFICATION

I, FREIDA BLANTON, hereby certify that I am the duly qualified and acting City Clerk of the City of Wallins Creek, Kentucky, that the foregoing Ordinance is a true copy of an Ordinance given first reading at a meeting of the Commission of said City duly held on February 8, 1988, and given second reading, enacted, signed by the Mayor of said City, and attested under Seal by me as City Clerk at a properly convened meeting of said Commission held on February 15, 1988, as shown by the official records of said City in my custody and under my control, that it has been ordered that the title and a certified Summary of said Ordinance be published as required by law, and that said Ordinance has been duly recorded in the official City Ordinance Book of said City.

I further certify that said meetings were duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820, and 61.825, that a quorum was present at each of said meetings, that said Ordinance has not been modified, amended, revoked, or repealed, and that same is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature as City Clerk and the official Seal of said City this 15th day of Feb., 1988.

(Seal of City)

Freida Blanton
City Clerk

BOND RESOLUTION

BLACK MOUNTAIN UTILITY DISTRICT

AUTHORIZING

BLACK MOUNTAIN UTILITY DISTRICT
WATER AND SEWER REVENUE BONDS, SERIES 1998

IN THE AMOUNT OF

\$472,000

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BOND RESOLUTION

RESOLUTION OF THE BLACK MOUNTAIN UTILITY DISTRICT OF HARLAN COUNTY, KENTUCKY, AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SALE OF \$472,000 PRINCIPAL AMOUNT OF BLACK MOUNTAIN UTILITY DISTRICT WATER AND SEWER REVENUE BONDS, SERIES 1998 FOR THE PURPOSE OF FINANCING THE COST (NOT OTHERWISE PROVIDED) OF THE CONSTRUCTION OF EXTENSIONS, ADDITIONS AND IMPROVEMENTS TO THE EXISTING COMBINED AND CONSOLIDATED WATERWORKS AND SEWER SYSTEM OF SAID DISTRICT; SETTING FORTH TERMS AND CONDITIONS UPON WHICH SAID BONDS MAY BE ISSUED AND OUTSTANDING; PROVIDING FOR THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SAID COMBINED AND CONSOLIDATED WATERWORKS AND SEWER SYSTEM; AND PROVIDING FOR AN ADVERTISED, PUBLIC, COMPETITIVE SALE OF SAID BONDS.

WHEREAS, the combined and consolidated waterworks and sewer system (the "System") of the Black Mountain Utility District (the "District") is owned and operated by said District pursuant to Chapters 58 and 65 of the Kentucky Revised Statutes (the "Act"), and

WHEREAS, the District presently has outstanding certain Prior Bonds (as hereinafter defined), which Prior Bonds are payable from and secured by a pledge of the revenues derived from the operation of the System, and

WHEREAS, all of the Prior Bonds presently outstanding are current as to payment of both principal and interest, and for the security of which a certain Sinking Fund and certain reserves are being maintained in the manner and by the means prescribed in the Prior Bond Resolution (as hereinafter defined) of the District, authorizing the Prior Bonds, and

WHEREAS, it is the desire and intent of the District at this time to authorize and provide for the issuance of revenue bonds in the principal amount of \$472,000 (the "Current Bonds"), for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the System of the District, in accordance with plans and specifications prepared by Quest Engineers, Inc. and to prescribe the covenants of the District, the rights of Bondowners and the details of the issuance and sale of the proposed Current Bonds, and

WHEREAS, the District desires and intends that the Current Bonds be issued so as to rank on a parity basis with the Prior Bonds, and

WHEREAS, the Prior Bonds were issued to and are now held by the Rural Development of the Department of Agriculture of the United States of America (the "RD"), and

WHEREAS, the RD, as the Owner of the Prior Bonds, has consented to the issuance by the District of the Current Bonds, and

WHEREAS, the Public Service Commission of Kentucky has granted to the District a Certificate of Public Convenience and Necessity, authorizing the construction of said extensions, additions and improvements, and

WHEREAS, the proceeds of the Current Bonds will be supplemented by Grant Proceeds (as hereinafter defined) in the amount of approximately \$1,007,000, and by connection charges in the amount of at least \$34,400, to provide the total cost of such construction,

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF THE BLACK MOUNTAIN UTILITY DISTRICT OF HARLAN COUNTY, KENTUCKY, AS FOLLOWS:

**ARTICLE 1. DEFINITIONS; PURPOSE; AUTHORIZATION OF BONDS;
SECURITY.**

Section 101. Definitions. As used in this Resolution, unless the context requires otherwise:

"Act" refers to Chapters 58 and 74 of the Kentucky Revised Statutes.

"ARC Grant" refers to the Appalachian Regional Commission grant described in Section 805 of this Resolution.

"Beginning Month" refers to the month following the month in which the Current Bonds authorized herein are issued, sold and delivered to the Purchaser thereof.

"Bond Counsel" refers to an attorney or firm of attorneys recognized nationally as experts in the field of municipal bond law and shall be deemed to refer to Rubin & Hays, Louisville, Kentucky, or their successors.

"Bondowner" or "Owner" refer to registered Owners of the Current Bonds at the time issued and outstanding hereunder.

"Bonds" collectively refers to the outstanding Current Bonds, Prior Bonds and the Parity Bonds.

"Bonds of 1988" or "Series 1988 Bonds" refer to the outstanding Black Mountain Utility District Water and Sewer Revenue Bonds of 1988, dated March 25, 1993, in the original authorized principal amount of \$150,000.

"Bonds of 1994" or "Series 1994 Bonds" refer to the outstanding Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1994A and 1994B, dated December 15, 1994, in the original authorized principal amount of \$454,000.

"Bonds of 1995" or "Series 1995 Bonds" refer to the outstanding Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1995A and 1995B, dated September 7, 1995, in the original authorized principal amount of \$432,000.

"Bond Resolution of 1988" or "1988 Bond Resolution" refer to the Resolution authorizing the Bonds of 1988, duly adopted by the Board of Commissioners of the District on January 17, 1989.

"Bond Resolution of 1994" or "1994 Bond Resolution" refer to the Resolution authorizing the Bonds of 1994, duly adopted by the Board of Commissioners of the District on September 13, 1994.

"Bond Resolution of 1995" or "1995 Bond Resolution" refer to the Resolution authorizing the Bonds of 1995, duly adopted by the Board of Commissioners of the District on May 16, 1995.

"*Chairman*" refers to the elected or appointed Chairman or Chairperson of the Commission.

"*Code*" refers to the Internal Revenue Code of 1986, as amended, and the Treasury Regulations relating thereto.

"*Commission*" refers to the Board of Commissioners of the District, or such other body as shall be the governing body of said District under the laws of Kentucky at any given time.

"*Construction Account*" refers to the Black Mountain Utility District Construction Account, created in Section 301(B) of this Current Bond Resolution.

"*Contractors*" refers to the general contractors who have been employed by the District to construct the Project.

"*Current Bond Resolution*" or "*Resolution*" refer to this Resolution authorizing the Current Bonds.

"*Current Bonds*" refers to the \$472,000 of Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1998 authorized by this Resolution, to be dated as of the date of issuance thereof.

"*Depository Bank*" refers to the bank, which shall be a member of the FDIC, which bank is Harlan National Bank, Harlan, Kentucky, or its successor.

"*Depreciation Fund*" refers to the Black Mountain Utility District Depreciation Reserve Fund, described in Section 402 of this Resolution.

"*District*" refers to the Black Mountain Utility District of Harlan County, Kentucky.

"*Engineers*" refers to the Engineers or any one of them, who prepared the plans and specifications for the construction of the Project and who will supervise the construction thereof and/or will furnish full time resident inspection of the construction of the Project, and shall be deemed to refer to Quest Engineers, Inc., or a member of said firm, or their successors.

"*Event of Default*" refers to one or more of the Events of Default set forth in Section 701 of this Resolution.

"*FDIC*" refers to the Federal Deposit Insurance Corporation, or its successors.

"*Fiscal Year*" refers to the annual accounting period of the District, beginning on January 1 and ending on December 31 of each year.

"*Funds*" refers to the Construction Account, the Revenue Fund, the Sinking Fund, the Depreciation Fund and the Operation and Maintenance Fund.

"Government" refers to the United States of America, or any agency thereof, including the RD.

"Grant Proceeds" refers to the proceeds of the RD Grant and the ARC Grant.

"Independent Consulting Engineer" refers to a consulting engineer or a firm of consulting engineers of recognized excellent reputation in the field of combined and consolidated waterworks and sewer system engineering, and such definition includes the Engineers named above.

"Interim Lender" refers to Kentucky Rural Water Finance Corporation, Bowling Green, Kentucky, its successors or assigns; or any other financial institution or governmental agency approved by the District.

"Local Counsel" refers to Mark R. Ford, Esq., Harlan, Kentucky, or any other attorney or firm of attorneys designated by the District.

"Multiple Advances" refers to the advance of loan funds from the RD as described in Section 302 of this Resolution.

"Note" refers to a single note or any number of notes, in such form as may be prescribed by the Interim Lender, including any revenue bond anticipation notes issued pursuant to Chapter 58 of the Kentucky Revised Statutes, including any renewal or extensions of the Note, issued by the District evidencing the interim financing for the Project as prescribed in Section 302 of this Resolution.

"Operation and Maintenance Fund" refers to the Black Mountain Utility District Operation and Maintenance Fund described in Section 401 of this Resolution.

"Outstanding Bonds" refers to the outstanding Bonds, and does not refer to, nor include, any Bonds for the payment of the principal and interest of which sufficient funds will have been deposited and earmarked for payment of Bonds; provided all Outstanding Bonds of any series held by the RD shall be deemed to constitute Outstanding Bonds until paid regardless of the deposit of funds to pay for same.

"Parity Bonds" refers to bonds which may be issued in the future which, pursuant to this Resolution, rank on a basis of parity with the outstanding Bonds, as to priority, security and source of payment, and does not refer to bonds which might be issued so as to rank inferior to the security and source of payment of the outstanding Bonds.

"Prior Bonds" refers collectively to the Series 1988 Bonds, the Series 1994 Bonds and the Series 1995 Bonds.

"Prior Bond Resolution" refers collectively to the 1988 Bond Resolution, the 1994 Bond Resolution and the 1995 Bond Resolution.

"Project" refers specifically to the construction of the currently proposed extensions, additions and improvements to the System of the District, which Project is being financed by the Current Bonds and by other funds.

"Purchaser" refers to the agency, person, firm or firms, or their successors, to whom the Current Bonds herein authorized are awarded at the public sale of the Current Bonds.

"RD" refers to the Rural Development of the Department of Agriculture of the United States of America.

"RD Grant" refers to the RD grant described in Section 804 of this Resolution.

"Required Signatures" refers to the signatures necessary to be obtained with reference to the approval of the expenditures to be made from the Construction Account, which required signatures shall consist of the signatures of (1) the Chairman; (2) the Engineers; and (3) the Purchaser; provided, however, any expenditures for issuance and administrative costs and the costs of any equipment which is not permanently affixed to the real estate shall not require the signature or the approval of the Engineers.

"Revenue Fund" refers to the Black Mountain Utility District Water and Sewer Revenue Fund, described in Section 401 of this Resolution.

"Secretary" refers to the elected or appointed Secretary of the Commission.

"Sinking Fund" refers to the Black Mountain Utility District Bond and Interest Sinking Fund, described in Section 401 of this Resolution.

"System" refers to the existing combined and consolidated waterworks and sewer system of the District, together with all extensions, additions and improvements to said System.

"Treasurer" refers to the elected or appointed Treasurer of the Commission.

"U.S. Obligations" refers to bonds or notes which are the direct obligations of the United States of America, or obligations the principal of and interest on which are guaranteed by the United States of America.

All words and terms importing the singular number shall, where the context requires, import the plural number and vice versa. Unless otherwise indicated, references to Articles or Sections refers to those in this Resolution.

Section 102. Purpose. The Current Bonds shall be issued for the purpose of financing the cost (not otherwise provided) of the Project, as set out in the plans and specifications prepared by the Engineers. The Commission hereby declares the System of the District, including the extensions, additions and improvements to be constructed, to constitute a revenue producing public project, and

said System shall continue to be owned, controlled, operated and maintained by the District as a revenue producing public project pursuant to the Act, so long as any Bonds remain outstanding.

Section 103. Construction Award Approved; Work Authorized. The Commission hereby authorizes, approves, ratifies and confirms its previous action in advertising for and taking steps toward awarding the contracts for the construction of the Project to the lowest and best bidders, and further approves the action of the District officials in entering into formal contracts with said bidders, subject to the necessary approvals being obtained. Authority is hereby given for undertaking the construction of the Project according to the plans and specifications heretofore prepared by the Engineers for the District, after all necessary approvals have been obtained.

Section 104. Declaration of Period of Usefulness. The Commission hereby declares that the period of usefulness of the System is more than forty (40) years from the date of completion of the Project.

Section 105. Authorization of Bonds. The District has heretofore determined that the total cost of the Project, including preliminary expenses, land and rights-of-way, engineering expense, capitalized interest during construction, legal and administrative costs, publication costs, initial deposits required and all incidental expenses, will not exceed \$1,513,400. Therefore, it is hereby determined to be necessary in order for the District to finance the cost (not otherwise provided) of the Project that the District issue a total of \$472,000 of Current Bonds, based on the following calculation:

Total cost of Project		\$1,513,400
Less:		
RD Grant	\$707,000	
ARC Grant	300,000	
Connection Charges	<u>34,400</u>	
Total Non-Bond Funds:		<u>(1,041,400)</u>
Balance to be financed by Current Bonds		\$472,000

Accordingly, for the purpose of financing the cost (not otherwise provided) of the Project, under the provisions of the Act, there is hereby authorized to be issued and sold \$472,000 principal amount of Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1998.

The Current Bonds shall be dated as of the date of delivery to the Purchaser thereof; shall bear interest from such date at such interest rate as may be fixed by supplemental resolution as a result of the advertised sale and competitive bidding for such Current Bonds, as hereinafter provided; and shall be issued and delivered as prescribed in Section 202 hereof.

Interest on the Current Bonds shall be payable semiannually on January 1 and July 1 of each year, provided that the first interest payment period will cover interest only from the date of delivery of the Current Bonds to the ensuing January 1 or July 1, as the case may be. Principal of the Current Bonds shall be payable on January 1 of each of the respective years until maturity, as set out in Section 201 hereof.

Section 106. Recognition of Prior Bonds. The District hereby expressly recognizes and acknowledges that the District has previously created for the benefit and protection of the owners of the Prior Bonds, a certain lien and pledge and certain security rights relating to the System, all as set forth in the Prior Bonds and in the Prior Bond Resolution.

Section 107. Current Bonds Shall be Payable on Out of Gross Revenues. The Current Bonds and any additional Parity Bonds that may be issued under the conditions and restrictions hereinafter set forth, shall be payable solely on a first lien basis out of the gross revenues of the System, on a parity with the Prior Bonds.

Section 108. Lien on Contracts. In addition to the revenue pledge securing the Bonds, a lien is hereby created and granted in favor of the Bondowners on all contracts, and on all other rights of the District pertaining to the System, enforceable by assignment to any receiver or other operator proceeding by authority of any court.

ARTICLE 2. THE BONDS; BOND FORM; PREPAYMENT.

Section 201. Principal Payments. Principal payments due on the Current Bonds shall be as set forth in the schedule of maturities set out in **Exhibit A** attached to this Resolution and incorporated herein.

Section 202. Issuance of Current Bonds; Bond Form. The Purchaser of the Current Bonds at the public sale shall take delivery of the Current Bonds in the form of one or more fully registered bonds, as set forth in **Exhibit B** attached hereto and incorporated herein, amounting in the aggregate to the principal amount of the Current Bonds authorized herein, maturing as to principal as set out in Section 201. The Current Bonds shall be numbered R-1 and consecutively upward thereafter. Such Current Bonds shall, upon appropriate execution on behalf of the District as prescribed, constitute the entire bond issue herein authorized, shall be negotiable (subject to registration requirements as to transferability), registered as to principal and interest and payable as directed by the registered Owner.

Section 203. Place of Payment and Manner of Execution. Both principal of and interest on the Current Bonds shall be payable at the place and in the manner set out in the form of such Current Bond. The Current Bonds shall be executed on behalf of the District by the manual or facsimile signature of the Chairman of the District, with the Corporate Seal of the District affixed thereto and attested by the manual or facsimile signature of the Secretary of said District.

If either of the officers whose signatures appear on the Current Bonds ceases to be such officer before delivery of said Current Bonds, such signatures shall nevertheless be valid for all purposes the same as if such officers had remained in office until delivery.

Section 204. Provisions as to Prepayment. Except when all of the Current Bonds are held by the Government, principal maturities falling due prior to January 1, 2009, shall not be subject to prepayment. Principal maturities falling due on and after January 1, 2009, shall be subject to prepayment by the District on any interest payment date falling on and after January 1, 2008, at par plus accrued interest, without any prepayment penalty.

So long as all of the Current Bonds are owned by the Government, all or any of the Current Bonds, or in a multiple of \$100, may be prepaid at any time in inverse chronological order of the principal maturities due, at par plus accrued interest without any prepayment penalty.

Notice of such prepayment shall be given by certified mail to the Bondowner or his assignee, at least 30 days prior to the date fixed for prepayment. Notice of such prepayment may be waived with the written consent of the Bondowner.

**ARTICLE 3. CONSTRUCTION ACCOUNT; INTERIM FINANCING;
APPLICATION OF PROCEEDS; ARBITRAGE LIMITATIONS.**

Section 301. Construction Account; Application of Proceeds of Bonds; Other Transfers and Deposits. The Treasurer, or such other District official as shall be designated by the Commission, shall be the custodian of all funds belonging to and associated with the System. All moneys in excess of the amount insured by the FDIC in the Construction Account shall be secured by the Depository Bank in accordance with U. S. Treasury Department Circular No. 176. The officials of the District entrusted with the receipt and disbursement of revenues of the System and the custody of valuable property shall be covered by a fidelity bond in the amount of not less than \$85,000 (the "Fidelity Bond"), or such larger amount as the RD may require, which Fidelity Bond shall be effective and secured by a surety company approved by the RD so long as it is owner of any of the Current Bonds. The RD and the District shall be named co-obligees in such Fidelity Bond and the amount thereof shall not be reduced without the written consent of the RD. Whenever sums in the Funds shall exceed \$85,000, the Fidelity Bond shall be increased accordingly as requested by and with the approval of the RD.

A. Covenants Applicable if RD Purchases Current Bonds. It is acknowledged that all covenants herein with reference to the necessity for approval of the RD, the necessity of observing RD regulations and procedures and the necessity of using RD forms (the "RD Forms"), shall apply only if the RD is the Purchaser of the Current Bonds and only so long as the RD holds the Current Bonds thereafter. In the event that the RD shall not be the Purchaser of the Current Bonds, or, after purchasing same, shall sell or transfer the Current Bonds to an Owner who shall not be the Government, all covenants herein with reference to the necessity for approval of the RD, the necessity of observing RD regulations and procedures, and the necessity of using RD Forms, shall not be applicable.

B. Application of Proceeds of Current Bonds. The proceeds of the Current Bonds shall be applied as follows:

(1) Payment of Interim Financing, Costs of Project and Costs of Issuance. Simultaneously with the delivery of the Current Bonds, there shall immediately be paid to the Interim Lender (or the RD if Multiple Advances are made) an amount sufficient to pay principal of and interest on any temporary loans borrowed by the District in anticipation of the sale and delivery of the Current Bonds and/or of the receipt of Grant Proceeds. Also, at the time of delivery of the Current Bonds, there shall be paid all amounts then due and payable in connection with the costs of the Project and in connection with the issuance of the Current Bonds.

(2) Construction Account. If and to the extent that the proceeds of the Current Bonds shall be in excess of the amount necessary to pay the interest, principal and costs referred to in subparagraph B(1) of this Section, such excess amount shall immediately be deposited in the "Black Mountain Utility District Construction Account" hereby created, which shall be established at the Depository Bank. There shall also be deposited in said Construction Account the Grant Proceeds, as and when received, or said Grant Proceeds may

be applied, to the extent necessary, to liquidate or reduce any interim financing owed by the District at the time of receipt of Grant Proceeds. Simultaneously with or prior to the delivery of the Current Bonds, there shall also be deposited in the Construction Account the proceeds of the District contribution in the minimum amount of \$34,400 (less any amounts theretofore used for authorized purposes), to supplement the proceeds of the Current Bonds and Grant Proceeds in order to assure completion of the Project.

(3) **Withdrawal of Funds From Construction Account.** Prior to the expenditure by the District of any moneys from the Construction Account, the District must obtain written approval from the RD as to such expenditures, if the RD is the Owner of any Outstanding Bonds. The proceeds of said Construction Account shall be withdrawn only on checks signed by the Chairman, the Treasurer (or by such other official of the District as may be authorized by the Commission), provided such official shall be covered by the Fidelity Bond required by Section 301 of this Resolution, in payment for services and/or materials supplied in connection with the Project, as evidenced by (1) a Requisition Certificate; and (2) invoices and/or partial payment estimates bearing the written approval of the Engineers and the Chairman (or by such other official of the District as may be authorized by the Commission), and which invoices and/or partial payment estimates must have been reviewed and approved for payment by the designated RD official.

Written approval or certification of the Engineers shall not be required for matters not under the jurisdiction of the Engineers, such as legal fees, land acquisition and related items.

During construction, the District shall disburse Construction Account funds in a manner consistent with RD Instruction 1942-A.

The District shall prepare and submit any and all RD Forms required by the RD. Periodic audits of the District's Construction Account records shall be made by RD as determined by it to be necessary.

(4) **Transfer of Capitalized Interest to Sinking Fund.** There shall be transferred from the Construction Account an amount sufficient to provide for capitalized interest (initially estimated at \$25,000) during the construction of the Project, as approved by the Engineers and by the RD. If and to the extent not theretofore expended in paying interest on interim financing and if and to the extent then needed to pay interest during the remaining period of construction of the Project, such amount so transferred from the Construction Account shall be deposited in the Sinking Fund.

(5) **Investment of Funds in Construction Account.** Pending disbursement of amounts on deposit in the Construction Account, all such funds, or such portion of said amounts on deposit in said Construction Account as is designated by the Commission, shall be invested for the benefit of such Construction Account in Certificates of Deposit, savings accounts or U.S. Obligations which may be converted readily into cash, having a maturity date prior to the date when the sums invested will be needed for costs of

the Project (as determined by the Engineers, the Chairman and the RD), provided that to the extent that any amounts on deposit in said Depository Bank shall cause the total deposits of the District in said Depository Bank to exceed the amount insured by the FDIC, the same shall be continuously secured by a valid pledge of U.S. Obligations, having an equivalent market value, in conformity with Section 66.480 of the Kentucky Revised Statutes. Investments in Certificates of Deposit may be made only if a separate RD Form 402-4 Agreement is executed, if the RD has purchased any of the Bonds, and investments in Certificates of Deposit or savings accounts may be made only in such Certificates or accounts of an FDIC bank. Any such investments will be a part of the Construction Account, and income from such investments will be credited to the Construction Account. All such investments shall be subject to the limitations set out in Section 303 hereof.

(6) **Statements of Contractors, Engineers and Attorneys as to Payment.** Prior to the delivery of the Current Bonds, if the RD is the Purchaser of the Current Bonds, the District will be required to provide the RD with statements from the Contractors, Engineers and attorneys for the District that they have been paid to date in accordance with their contract or other agreements and, in the case of any Contractor, that he has paid his suppliers and subcontractors. Any exceptions must be authorized under RD Instruction 1942-A.

(7) **Disposition of Balance in Construction Account After Completion of Project.** When the Project has been completed and all construction costs have been paid in full, as certified by the Engineers for the District and/or by the RD, any balance then remaining in the Construction Account may, with the consent of the RD, be applied to the cost of constructing additional extensions, additions and improvements to the System (the "Additional Construction"). If such Additional Construction is to be undertaken by the Contractors previously engaged in the Project, such Additional Construction may be authorized by a change order.

If there is a balance remaining in the Construction Account after such Additional Construction, such balance (subject to legal requirements as to possible refund of any allocated portion of the balance derived from Grant Proceeds) shall be transferred to the Sinking Fund, whereupon said Construction Account shall be closed. Such remaining balance in the Construction Account so transferred to the Sinking Fund shall be used by the District immediately to prepay principal installments due on the Current Bonds in the inverse order of maturities without prepayment penalty, provided further that any balance insufficient to prepay at least \$100 of the principal payment falling due in any year on the Bonds will be transferred to the Depreciation Fund.

Section 302. Interim Financing Authorization.

A. **Interim Financing.** The District shall use interim financing for the Project during construction of that portion of the cost of the Project financed by the Current Bonds, if available at reasonable rates and terms.

The borrowing of up to the aggregate sum of \$472,000 from the Interim Lender is hereby authorized; and the Chairman is hereby authorized to execute the Note in the name and on behalf of the District. Each advance under the Note shall evidence a loan by the Interim Lender to the District for services rendered and/or materials supplied in connection with the Project, as evidenced by a Requisition Certificate.

Interim financing shall be disbursed as follows:

(1) At the direction of the District, the Interim Lender shall disburse the proceeds of the Note by cashier's checks directly to the parties entitled thereto as set forth in the Requisition Certificate; or

(2) At the direction of the District, the Interim Lender shall deposit the proceeds of the Note in the Construction Account, in which event amounts of the District on deposit therein shall, until expended to the extent that same shall exceed the amount insured by the FDIC, be fully secured by a pledge of U.S. Obligations.

The aggregate of the principal amount of all Notes shall not exceed \$472,000. Each Note which is renewed or superseded shall be simultaneously cancelled by the Interim Lender and transmitted to the Treasurer. The rate of interest applicable to each Note shall not exceed a reasonable rate, which rate is subject to the approval of the RD.

The total authorized interim financing of \$472,000 shall be the maximum indebtedness which the District may owe at any one time to the Interim Lender for the purpose of providing temporary construction financing for the Project; provided, however, that the District may reduce the amount owed by the District to the Interim Lender from time to time as and when funds are available to the District, whether derived from the proceeds of the Grant Proceeds, the proceeds of the sale of the Current Bonds or otherwise, and may reborrow from the Interim Lender additional amounts in anticipation of the further receipt by the District of additional proceeds from the Current Bonds and/or Grant Proceeds.

The District hereby covenants and agrees with the Interim Lender that upon the issuance and delivery of the Current Bonds and/or the receipt of said Grant Proceeds, the District will apply the proceeds thereof, to whatever extent may be necessary, in payment of the principal amount of the Note, together with accrued interest thereon to the date of such payment; and the proceeds of the Current Bonds and Grant Proceeds are hereby pledged therefor, and such pledge shall constitute a first and prior charge against said proceeds.

Although the proceeds of the Current Bonds and Grant Proceeds are pledged to the repayment of said interim financing, it is recognized that the Grant Proceeds may be applied to the extent required at the time of receipt of the Grant Proceeds, to the payment of costs of the Project due and owing by the District at the time of receipt of such Grant Proceeds, rather than to the repayment of portions of the interim financing at that time. If and to the extent that the Grant Proceeds are in excess of any costs of the Project due and owing at the time of receipt thereof, such Grant Proceeds may be applied, in the same manner as set out hereinabove, to the reduction of the

amount of the interim financing, after which, such interim financing may again be increased as theretofore. The District further pledges the revenues of the System to the repayment of said interim financing, subject to the vested rights and priorities of the pledges securing the Outstanding Bonds.

It is understood that the foregoing constitutes an alternative method of obtaining interim financing, and does not preclude the authorization and sale, by public advertisement or otherwise, of bond anticipation notes and/or grant anticipation notes to the most favorable bidder on the open market, by concurrent or subsequent proceedings of the District.

B. Multiple Advances by RD. In the event the Current Bonds are purchased by the RD, and in the event the District is unable to obtain a commitment for interim financing for the Project from any Interim Lender at reasonable rates and terms, the Chairman is authorized to request Multiple Advances of loan funds from the RD.

If the RD agrees to make Multiple Advances to the District pending the delivery of the Current Bonds, the Chairman is hereby authorized to execute in the name and on behalf of the District any number of Notes. Each such Note, evidencing an advance of funds by the RD to the District, shall be in the form prescribed by the RD.

Each request for an advance from the RD shall be accompanied by a Requisition Certificate. The District will also furnish to the RD, prior to the receipt of each Multiple Advance, whatever additional documentation shall be requested by the RD, including an updated supplemental title opinion of Local Counsel and an updated supplemental preliminary legal opinion of Bond Counsel.

The proceeds of any Multiple Advances shall be either (i) disbursed directly to the parties entitled thereto for services and/or materials supplied in connection with the Project; or (ii) deposited into the Construction Account and disbursed in accordance with the provisions of Section 301 hereof, in which event amounts on deposit in such Construction Account shall, until expended, to the extent that same shall exceed the amount insured by the FDIC, be fully secured by a pledge of U.S. Obligations.

The proceeds of the Current Bonds are hereby pledged to the repayment of such Multiple Advances, and such pledge shall constitute a first and prior pledge against such proceeds. The District further pledges the revenues of the System to the repayment of said Multiple Advances, subject to the vested rights and priorities of the pledges securing the Outstanding Bonds.

Section 303. Arbitrage Limitations on Investment of Proceeds. The District covenants and certifies, in compliance with the Code, on the basis of known facts and reasonable expectations on the date of adoption of this Resolution, that it is not expected that the proceeds of the Current Bonds will be used in a manner which would cause the Current Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The District covenants to the Owners of the Current Bonds that (1) the District will make no use of the proceeds of said Current Bonds which, if such use had been reasonably expected on the date of issue of such Current Bonds, would have caused such

Current Bonds to be "arbitrage bonds"; and (2) the District will comply with all of the requirements of the Code to whatever extent is necessary to assure that the Current Bonds shall not be treated as or constitute "arbitrage bonds" and that the interest on the Bonds shall be excludable from gross income for federal income tax purposes.

Prior to or at the time of delivery of the Current Bonds, the Chairman and/or the Treasurer (who are jointly and severally charged with the responsibility for the issuance of the Current Bonds) are authorized to execute such certifications as shall be required by Bond Counsel, setting out all known and contemplated facts concerning the anticipated construction, expenditures and investments, including the execution of necessary and/or desirable certifications of the type contemplated by Section 148 of the Code in order to assure that interest on the Current Bonds shall be excludable from gross income for federal income tax purposes and that the Current Bonds will not be treated as "arbitrage bonds".

ARTICLE 4. FLOW OF FUNDS.

Section 401. Funds. There was heretofore created in the Prior Bond Resolution the following funds and accounts:

- (a) Black Mountain Utility District Water and Sewer Revenue Fund
- (b) Black Mountain Utility District Bond and Interest Sinking Fund
- (c) Black Mountain Utility District Depreciation Reserve Fund
- (d) Black Mountain Utility District Operation and Maintenance Fund

All of the Funds shall be maintained with the Depository Bank so long as any Bonds remain outstanding.

Section 402. Flow of Funds. All proceedings preliminary to and in connection with the issuance of the Outstanding Bonds, including provisions made for (i) the receipt, custody and application of the proceeds of the Outstanding Bonds; (ii) the operation of the System on a revenue-producing basis; (iii) the segregation, allocation and custody of the revenues derived from the operation of the System; (iv) the enforcement and payment of the Outstanding Bonds and (v) the depreciation of the System; and all other covenants for the benefit of Bondowners set out in the Prior Bond Resolution, are hereby ratified and confirmed and shall continue in force and inure to the security and benefit of the Outstanding Bonds, the same as if such provisions and proceedings were set out in full herein; provided, further, that after the issuance of the Current Bonds, the income and revenues of the System shall be collected, segregated, accounted for and distributed as follows:

A. Revenue Fund. The District covenants and agrees that it will continue to deposit in the Revenue Fund, promptly as received from time to time, all revenues of the System, as same may be extended and improved from time to time. The moneys in the Revenue Fund shall continue to be used, disbursed and applied by the District only for the purpose and in the manner and order of priorities specified in the Prior Bond Resolution, as hereinafter modified by this Resolution, all as permitted by the Act, and in accordance with previous contractual commitments.

B. Sinking Fund. It is hereby recognized that the District is obligated upon the issuance of the Current Bonds to provide for additional debt service requirements of the Current Bonds.

At or after the delivery of the Current Bonds, there shall be transferred from the Construction Account to the Sinking Fund an amount sufficient to provide for capitalized interest (initially estimated at \$25,000) on the Current Bonds during the construction of the Project, if and to the extent not theretofore expended in paying interest on interim financing and if and to the extent then needed to pay interest during the remaining period of construction of the Project.

There shall be transferred from the Revenue Fund and deposited into the Sinking Fund on or before the 20th day of each month, for payment of interest on and principal of the Outstanding Bonds, a sum equal to the total of the following:

- (1) An amount equal to one-sixth (1/6) of the next succeeding six-month interest payment to become due on the Bonds, plus
- (2) A sum equal to one-twelfth (1/12) of the principal of any Bonds maturing on the next succeeding January 1.

If the District for any reason shall fail to make any monthly deposit as required, then an amount equal to the deficiency shall be set apart and deposited into the Sinking Fund out of the first available revenues in the ensuing months, which amount shall be in addition to the monthly deposit otherwise required during such succeeding months. Whenever there shall accumulate in the Sinking Fund amounts in excess of the requirements during the next twelve months for paying the principal of and interest due on the Outstanding Bonds, as same fall due, such excess may be used for redemption or prepayment of any Outstanding Bonds, subject to the terms and conditions set forth therein, prior to maturity.

C. Depreciation Fund. Pursuant to the provisions of the Prior Bond Resolution which requires that an adjustment be made in the Depreciation Fund upon the issuance of bonds ranking on a parity with the Prior Bonds, it is hereby determined that upon the issuance of the Current Bonds, and upon completion of the Project, as certified by the Engineers and by the RD, there shall next be transferred from the Revenue Fund the sum of at least \$710 (increased from \$490) each month which shall be deposited into the Depreciation Fund until there is accumulated in such Depreciation Fund the sum of at least \$88,200 (increased from \$61,800), which amount shall be maintained, and when necessary, restored to said sum of \$88,200, so long as any of the Bonds are outstanding and unpaid.

As further security for the Bondowners and for the benefit of the District, it has been and is hereby provided that in addition to the monthly transfers required to be made from the Revenue Fund into the Depreciation Fund, there shall be deposited into said Depreciation Fund all proceeds of connection fees collected from potential customers (except the amounts necessary to pay the actual costs and service connections applicable to said potential customers) to aid in the financing of the cost of future extensions, additions and improvements to the System, plus the proceeds of any property damage insurance (not otherwise used to replace damaged or destroyed property); and any such amounts or proceeds so deposited shall be used solely and only for the purposes intended.

Moneys in the Depreciation Fund may be withdrawn and used by the District, upon appropriate certification of the Commission, for the purpose of paying the cost of unusual or extraordinary maintenance, repairs, renewals and replacements not included in the annual budget of current expenses and/or of paying the costs of constructing future extensions, additions and improvements to the System which will either enhance its revenue-producing capacity or will provide a higher degree of service, and when necessary, for the purpose of making payments of principal and interest on the Bonds if the amount on deposit in the Sinking Fund is not sufficient to make such payments.

D. Operation and Maintenance Fund. There shall next be transferred monthly from the Revenue Fund and deposited into said Operation and Maintenance Fund, sums sufficient to meet the current expenses of operating and maintaining the System. The balance maintained in said Operation and Maintenance Fund shall not be in excess of the amount required to cover anticipated System expenditures for a two-month period pursuant to the District's annual budget.

E. Monthly Principal and Interest Payments if Requested by the RD. So long as any of the Bonds are held or insured by the RD, the District shall, if requested by the RD, make the payments required by this Section 402, in monthly installments to the RD or to the insured Owners of the Bonds.

F. Surplus Funds. Subject to the provisions for the disposition of the income and revenues of the System as set forth hereinabove, which provisions are cumulative, and after paying or providing for the payment of debt service on any subordinate obligations, there shall be transferred, within sixty days after the end of each fiscal year, the balance of excess funds in the Revenue Fund on such date, to the Depreciation Fund for application in accordance with the terms of this Resolution or to the Sinking Fund to be applied to the maximum extent feasible, to the prompt purchase or redemption of Outstanding Bonds.

G. Investment and Miscellaneous Provisions. All monies in the Sinking Fund and the Depreciation Fund shall be deposited in the Depository Bank, or such portion thereof as is designated by the Commission. All monies in the Sinking Fund and the Depreciation Fund shall be invested for the benefit of such respective Funds in Certificates of Time Deposit or savings accounts of the Depository Bank or in U.S. Obligations which may be converted readily into cash, having a maturity date prior to the date when the sums invested will be needed for the purposes for which such funds may be expended, provided that to the extent that any amount of the District on deposit in the Depository Bank shall cause the total deposits of the District in said Depository Bank to exceed the amount insured by the FDIC, such excess amount shall be continuously secured by a valid pledge of U.S. Obligations, having an equivalent market value, in conformity with Section 66.480 of the Kentucky Revised Statutes.

If the RD has purchased any of the Outstanding Bonds, investments in Certificates of Deposit may be made only if a separate RD Form 402-4 Agreement is executed. Any such investments will be a part of the respective Funds from which the proceeds invested are derived, and income from such investments will be credited to such respective Funds. All investments of funds derived from proceeds of the Outstanding Bonds shall be subject to the applicable limitations set out in Section 303 hereof.

All payments into the Funds shall be made on or before the twentieth (20th) day of each month, except that when the twentieth (20th) day of any month shall be a Saturday, Sunday or a legal holiday, then such payment shall be made on the next succeeding business day.

All monies held in any of the Funds shall be kept apart from all other District funds and shall be deposited in the Depository Bank, and all such deposits which cause the aggregate of all deposits of the District therein to be in excess of the amount secured by FDIC, shall (unless

invested as herein authorized) be secured by a surety bond or bonds or by a pledge of U.S. Obligations, having a market value equivalent to such deposit.

The Treasurer shall keep appropriate records as to payment of principal and interest installments and as to payment of principal of and interest on any Bonds.

Section 403. Current Bonds on a Parity with Prior Bonds. It is hereby certified and declared that prior to the issuance of any of the Current Bonds, there will have been procured and filed with the District (i) a letter from the RD to the effect that the RD agrees to the issuance of the Current Bonds ranking on a parity as to security and source of payment with the Prior Bonds, all of which are owned by the RD, together with (ii) a certification signed by the RD to the effect that a legend has been typed, stamped or otherwise affixed on each of the Prior Bonds held by the RD, evidencing the agreement of the RD as the then Owner of the Prior Bonds, to the issuance of the Current Bonds so as to rank on a parity with the Prior Bonds, such legend to be in substantially the following form:

The holder of this Bond has consented to the issuance of \$472,000 of Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1998 ranking on a parity as to security and source of payment with this Bond.

Accordingly, it is hereby found and declared that the Current Bonds shall rank and be payable on a parity with said outstanding Prior Bonds from the gross income and revenues of the System.

ARTICLE 5. COVENANTS OF DISTRICT

Section 501. Rates and Charges. The District shall charge such rates and charges for all services and facilities rendered by the System, which rates and charges shall be reasonable, taking into account and consideration the cost and value of the System, the cost of maintaining, repairing and operating same and the amounts necessary for the payment of principal of and interest on Outstanding Bonds against the System. The District shall charge such rates and charges as shall be adequate to meet the requirements of Articles 4 and 5 hereof.

The District covenants that it will not reduce the rates and charges for the services rendered by the System without first filing with the Secretary a certification of an Independent Consulting Engineer that the annual net revenues (defined as gross revenues less operating expenses) of the then existing System for the fiscal year preceding the year in which such reduction is proposed, as such annual net revenues are adjusted, after taking into account the projected reduction in annual net revenues anticipated to result from any such proposed rate decrease, are equal to not less than 120% of the average annual debt service requirements for principal and interest on all of the then Outstanding Bonds payable from the revenues of the System, calculated in the manner specified in Section 603 hereof.

Section 502. Books and Accounts; Audit. The District shall maintain proper records and accounts relating to the operation of the System and the District's financial affairs; and the Bondowners, or their authorized representatives, shall have the right at all reasonable times to inspect the facilities of the System and all records, accounts and data relating thereto. An annual audit shall be made of the books and accounts pertinent to the System by a Certified Public Accountant licensed in Kentucky. No later than ninety (90) days after the close of each Fiscal Year, copies of such audit reports certified by such Certified Public Accountant shall be promptly mailed to the RD without request, so long as the Government is the Owner of any of the Bonds, and to any Bondowner that may have made a written request for same.

Monthly operating reports shall be furnished to the RD and to any Bondowner requesting same, during the first two (2) years of operation after completion of the Project, and whenever and so long as the District is delinquent in any of the covenants set out in the Prior Bond Resolution or this Current Bond Resolution. Thereafter, quarterly operating reports shall be furnished at all other times to the RD and to any Bondowner requesting the same.

Section 503. System to Continue to be Operated on Fiscal Year Basis; Annual Budget. While any of the Bonds are outstanding and unpaid, and to the extent permitted by law, the System shall continue to be operated and maintained on a Fiscal Year basis.

Not later than sixty (60) days before the end of each Fiscal Year, the District agrees to cause to be prepared a proposed annual budget of operating expenses (the "Proposed Budget") of the System for the then ensuing Fiscal Year, itemized on the basis of monthly requirements. A copy of said Proposed Budget shall be mailed to any Bondowner who may request in writing a copy of such Proposed Budget and to the RD without request, if the Government is the Owner of any of the Bonds.

For the purpose of the Proposed Budget, operating expenses shall include all reasonable and necessary expenses of operating, repairing, maintaining and insuring the System, but shall exclude depreciation and debt service payments. The District covenants that the operating expenses incurred in any year will not exceed the reasonable and necessary amounts therefor, and that the District will not expend any amount or incur any obligation for operation or maintenance and repair in excess of the amounts provided for operating expenses in the annual budget, except upon resolution by the District that such expenses are necessary to operate and maintain the System.

Not later than sixty (60) days before the end of each Fiscal Year, the District shall prepare an estimate of gross revenues to be derived from the operation of the System for said Fiscal Year, and, to the extent that said gross revenues are insufficient (a) to pay debt service requirements on all Outstanding Bonds during the ensuing Fiscal Year, (b) to accumulate and maintain all required reserves enumerated herein and (c) to pay operating expenses, the District shall revise the rates and charges sufficiently to provide the funds so required.

If the Owners of at least 50% of the principal amount of the Outstanding Bonds, or the Government so long as it is the Owner of any of said Outstanding Bonds, so request, the Commission shall hold an open hearing not later than thirty (30) days before the beginning of the ensuing Fiscal Year, at which time any Bondowner may appear by agent or attorney and may file written objections to such proposed budget. Notice of the time and place of such hearing shall be mailed at least fifteen (15) days prior to the hearing to each registered Bondowner and to the Government.

The District covenants that annually before the first day of the Fiscal Year, the annual budget for the upcoming Fiscal Year will be adopted substantially in accordance with the Proposed Budget, and that no expenditures for operation and maintenance expenses of the System in excess of the budgeted amount shall be made during such Fiscal Year unless directed by said District by a specific resolution duly adopted.

Section 504. General Covenants. The District, through its Commission, hereby covenants and agrees with the Owners of the Bonds that:

- (1) It will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the Commonwealth of Kentucky;
- (2) It will make and collect reasonable and sufficient rates and charges for services and facilities rendered by the System;
- (3) It will segregate the revenues and income from the System and make application thereof consistent with and as provided by this Resolution;
- (4) Unless the written consent of the Owners of a majority of the principal amount of the Outstanding Bonds has been obtained, the District agrees not to sell, lease, mortgage or in any manner dispose of any integral part of the System, including any and all appurtenances thereto and extensions, additions

and improvements that may be made thereto, until all of the Outstanding Bonds shall have been paid or provided for in full, as provided herein; subject to the provisions of Section 607 hereof;

- (5) It will maintain in good condition and continuously operate the System and appurtenances thereto and will charge such rates and charges for the services rendered thereby so that the gross income and revenues will be sufficient at all times (i) to pay the interest on and principal of the Outstanding Bonds as same become due; (ii) to pay the cost of operating and maintaining the System; and (iii) to provide for an adequate depreciation account;
- (6) It will carry and maintain insurance on properties of the System subject to loss or damage in amounts and against hazards substantially in accordance with the practices of other districts, cities or corporations which own and maintain combined and consolidated waterworks and sewer systems under similar conditions; and so long as the Government is the Owner of any of the Outstanding Bonds, the Government will be listed as co-beneficiary on any such policy; and the District shall further comply with the insurance requirements of Section 506 hereof (involving insurance on motors, tanks and structures); and
- (7) It will, pursuant to Section 96.394 of the Kentucky Revised Statutes and other applicable legal provisions, cause rates and charges for sewer services provided by the System to be billed simultaneously with rates and charges for water service furnished to sewer customers by the System, and will provide that water service will be discontinued to any premises where there is a failure to pay any part of the aggregate charges so billed, including such penalties and fees for disconnection and/or reconnection as be prescribed from time to time.

Section 505. Other Covenants Applicable So Long as RD Owns Any Bonds. So long as the RD shall own any of the Bonds, the District shall comply with such RD regulations, requirements and requests as shall be made by the RD, including the furnishing of operating and other financial statements, in such form and substance and for such periods as may be requested by the RD, the carrying of insurance of such types and in such amounts as the RD may specify, with insurance carriers acceptable to the RD and compliance with all of the terms and conditions of the Loan Resolution (RD Form 1942-47) adopted and executed by the District, which is hereby authorized, approved, ratified and confirmed.

Section 506. Insurance on Motors, Tanks and Structures. The District shall (a) immediately after the adoption of this Resolution and (b) at the time of final acceptance of the Project, insure all electric motors, elevated water storage tanks, pumping stations and major structures of the System in an amount recommended by the Engineers and approved by the RD, so long as the RD is the Owner of any of the Bonds, for the hazards usually covered in such area, and shall similarly insure same in an amount recommended by the Engineers, without the necessity of approval by the

RD if and whenever the District has Outstanding Bonds against the System and none of such Outstanding Bonds are owned by the RD.

ARTICLE 6. INFERIOR BONDS AND PARITY BONDS

Section 601. Inferior Bonds. Except as hereinafter provided below in this Article, the District shall not, so long as any Bonds are outstanding, issue any additional bonds payable from the revenues of the System unless the security and/or pledge of the revenues and statutory mortgage lien to secure such additional bonds are made inferior and subordinate in all respects to the security of the Bonds.

The District expressly reserves the right at any time to issue its bonds or other obligations payable from the revenues of the System and not ranking on a parity basis with the Current Bonds, without any proof of previous earnings or net revenues, provided that the consent of the RD must be obtained prior to the issuance of any inferior bonds so long as the RD owns any of the Bonds, and provided further that, after the initial completion of the Project, such inferior bonds may be issued only for the purpose of providing for future extensions, additions and improvements to the System, and only in express recognition of the priorities, liens and rights created and existing for the security, source of payment and protection of the Outstanding Bonds; provided further, that nothing in this Section is intended to restrict or shall be construed as a restriction upon, the ordinary refunding all or a portion of the Outstanding Bonds.

Section 602. Parity Bonds to Complete the Project. The District hereby certifies, covenants and agrees that in the event that the cost of completion of the construction of the Project shall exceed the moneys available to the District from any and all sources, the District shall have the right, if necessary, to provide for such excess, and only such excess, through the issuance of Parity Bonds, provided the District has obtained a certification from the Engineers to the effect that it is necessary to issue the desired amount of Parity Bonds in order to enable the District to pay the cost (not otherwise provided) of the completion of the Project, and provided the District has complied with the provisions of Section 603 below or has obtained:

- (a) the consent of the RD if the Government is as the Owner of the Prior Bonds at that time or the consent of any other Owners of the Prior Bonds, and
- (b) the consent of (1) the RD if the Government is the purchaser of the Current Bonds; or (2) the Owners of at least 75% of the principal amount of the Current Bonds outstanding, if the Current Bonds have been issued, sold and delivered and are held by Owners other than the Government.

Section 603. Parity Bonds to Finance Future Improvements. The District reserved the right and privilege, and does hereby reserve the right and privilege, of issuing additional Parity Bonds, but only under the conditions specified in the Current Bond Resolution, which conditions are as follows:

The District further reserves the right to add new combined and consolidated waterworks and sewer facilities and/or to finance future extensions, additions and improvements to the System by the issuance of one or more additional series of Parity Bonds to be secured by a parity lien on and ratably payable on a parity with the Current Bonds, from the revenues of the System, provided:

(a) The facilities to be constructed from the proceeds of the additional Parity Bonds are made a part of the System and their revenues are pledged as additional security for the additional Parity Bonds and for the Outstanding Bonds.

(b) The District is in compliance with all covenants and undertakings in connection with all of the Outstanding Bonds.

(c) The annual net revenues (defined as gross revenues less operating expenses), of the then existing System for the Fiscal Year preceding the year in which such Parity Bonds are to be issued, adjusted as hereinafter provided, shall be certified by an independent Certified Public Accountant to be equal at least one hundred twenty percent (120%) of the average annual debt service requirements for principal and interest on all Outstanding Bonds payable from the revenues of the System, plus the anticipated debt service requirements of any Parity Bonds then proposed to be issued. The calculation of average annual debt service requirements of principal and interest on the additional Parity Bonds to be issued shall, regardless of whether such additional Parity Bonds are to be serial or term bonds, be determined on the basis of the principal of and interest on such Parity Bonds being payable in approximately equal annual installments.

(d) The annual net revenues referred to above may be adjusted for the purpose of the foregoing computations to reflect:

(1) any revisions in the System's schedule of rates or charges being imposed on or before the time of the issuance of any such additional Parity Bonds, and

(2) any increase in the annual net revenues to be realized from the proposed extensions, additions and improvements being financed (in whole or in part) by such additional Parity Bonds;

provided all such adjustments shall be based upon and included in a certification of an Independent Consulting Engineer.

(e) Compliance with Section 603(a) through (d) shall not be necessary for the issuance of Parity Bonds if the District has obtained (1) the written consent of the RD for the issuance of such Parity Bonds, if the Government is the Owner of any Bonds at the time of issuance of such Parity Bonds; and (2) the written consent of the Owners of all of the then outstanding Prior Bonds, and no other prerequisite need be complied with by the District in order to issue Parity Bonds.

Section 604. Covenants to be Complied with at Time of Issuance of Parity Bonds. The District hereby covenants and agrees that in the event any Parity Bonds are issued, the District shall:

(a) Adjust the monthly amount to be deposited into the Sinking Fund on the same basis as that prescribed in the provisions establishing such Sinking Fund, to reflect the average annual debt service requirements of the Parity Bonds;

(b) Adjust the minimum annual amount to be deposited monthly into the Depreciation Fund on the same basis as that prescribed in the provisions establishing such Depreciation Fund, taking into account the future debt service requirements of all Bonds which will then be outstanding against the System; and

(c) Make such Parity Bonds payable as to principal on January 1 of each year in which principal falls due and payable as to interest on January 1 and July 1 of each year until the final maturity of such Parity Bonds.

Section 605. Prepayment Provisions Applicable to Parity Bonds. If, in connection with any subsequently issued series of Parity Bonds, it is provided that excess revenues in the Revenue Fund shall be used to prepay Outstanding Bonds in advance of scheduled maturity, or if the District at its option undertakes to prepay Outstanding Bonds in advance of scheduled maturity, it is agreed and understood, for so long as the Government owns any of the Outstanding Bonds, that no such prepayment will be effected without the approval of the RD.

Section 606. Consent of the RD Regarding Future Bonds. Notwithstanding any other provisions of this Resolution, the District agrees that so long as the Government owns any Outstanding Bonds against and/or payable from the revenues of the System, the District will not issue any future bonds, notes or other obligations against, secured by or payable from the revenues of the System without the written consent of the RD.

Section 607. Priority of Lien; Permissible Disposition of Surplus or Obsolete Facilities. The District covenants and agrees that so long as any of the Prior Bonds and/or Bonds are outstanding, the District will not sell or otherwise dispose of any of the facilities of the System, or any part thereof, and, except as provided above, the District will not create or permit to be created any charge or lien on the revenues thereof ranking equal or prior to the charge or lien of the Outstanding Bonds. Notwithstanding the foregoing, the District may at any time permanently abandon the use of, or sell at fair market value, any part of the facilities of the System, provided that:

- (a) The District is in compliance with all covenants and undertakings in connection with all of the Outstanding Bonds, and the required reserves for such Outstanding Bonds will have been accumulated;
- (b) The District will, in the event of any such sale, apply the proceeds to either (1) redemption of Outstanding Bonds in accordance with the provisions governing prepayment of bonds in advance of maturity; or (2) replacement of the facility so disposed of by another facility, the revenues of which shall be incorporated into the System, as hereinbefore provided;

- (c) The District certifies, in good faith, prior to any abandonment of use, that the facilities to be abandoned are no longer economically feasible of producing net revenues; and
- (d) The District certifies, in good faith, that the estimated net revenues of the remaining facilities of the System for the then next succeeding Fiscal Year, plus the estimated net revenues of the facilities, if any, to be added to the System, comply with the earnings requirements hereinbefore provided in the provisions and conditions governing the issuance of Parity Bonds.

Notwithstanding any other provisions hereof, so long as any Bonds are held by the Government, the District shall not dispose of its title to the System or to any part thereof, without first obtaining the written consent of the RD.

ARTICLE 7. DEFAULT AND CONSEQUENCES

Section 701. Events of Default. The following items shall constitute an Event of Default on the part of the District:

- (a) The failure to pay principal of the Bonds as and when same shall become due and payable, either at maturity or by proceedings for redemption.
- (b) The failure to pay any installment of interest on the Bonds when the same shall become due and payable or, if any or all of the Outstanding Bonds are owned by the RD, within thirty (30) days thereafter.
- (c) The default by the District in the due or punctual performance of any of the covenants, conditions, agreements and provisions contained in the Bonds, the Prior Bond Resolution or in this Resolution.
- (d) The failure to promptly repair, replace or reconstruct facilities of the System that have been damaged and/or destroyed.
- (e) The entering of any order or decree with the consent or the acquiescence of the District, appointing a receiver of all or any part of the System or any revenues thereof; or if such order or decree shall be entered without the acquiescence or consent of the District, its failure to have the order vacated, discharged or stayed on appeal within sixth (60) days after entry.

Section 702. Consequences of Event of Default. Any Owner of the Current Bonds may enforce and compel the performance of all duties and obligations of the District set forth herein. Upon the occurrence of an Event of Default, then upon the filing of a suit by any Owner of said the Current Bonds, any court having jurisdiction of the action may appoint a receiver to administer said System on behalf of the District with power to charge and collect rates sufficient to provide for the payment of operating and maintenance expenses and for the payment of principal of and interest on the Outstanding Bonds and to provide and apply the income and revenues in conformity with this Resolution and with the laws of the Commonwealth of Kentucky.

The District hereby agrees to transfer to any bona fide receiver or other subsequent operator of the System, pursuant to any valid court order in a proceeding brought to enforce collection or payment of the District's obligations, all contracts and other rights of the District pertaining to the System, conditionally, for such time only as such receiver or operator shall operate by authority of the court. Upon the occurrence of an Event of Default, the Owner of any of the Outstanding Bonds may require the governing body of the District by appropriate order to raise the rates a reasonable amount consistent with the requirements of this Resolution.

**ARTICLE 8. CONTRACTUAL PROVISIONS; GRANT APPROVAL;
MISCELLANEOUS PROVISIONS.**

Section 801. Resolution Contractual with Bondowners. The provisions of this Resolution constitute a contract between the District and its Commission and the Owners of the Current Bonds as may be outstanding from time to time; and after the issuance of any of said Current Bonds, no change, alteration or variation of any kind of the provisions of this Resolution shall be made in any manner which will affect an Owner's rights except as herein provided or except with the written consent of all Bondowners until such time as all of the Current Bonds and the interest thereon have been paid in full or fully provided for; provided that the Commission may adopt any resolution for any purpose not inconsistent with the terms of this Resolution and which shall not impair the security of the Owners of the Current Bonds and/or for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective or inconsistent provisions contained herein or in any resolution or other proceedings pertaining hereto.

It is further agreed that the Owners of 75% in principal amount of the Current Bonds at any time outstanding shall have the right to consent to and approve the adoption of resolutions or other proceedings, modifying or amending any of the terms or provisions contained in this Resolution, subject to the conditions that (a) this Resolution shall not be so modified in any manner that may adversely affect the rights of the Owners of any of the Prior Bonds, nor in any manner that may adversely affect the rights of any certain Owners of the Outstanding Bonds without similarly affecting the rights of all Owners of such Outstanding Bonds, or to reduce the percentage of the number of Owners whose consent is required to effect a further modification and (b) no such change may be effected without the consent of the RD so long as the RD owns any of the Outstanding Bonds.

Section 802. All Current Bonds are Equal. The Current Bonds authorized herein shall not be entitled to priority one over the other in the application of the income and revenues of the System, or with respect to the security for their payment, regardless of the time or times of their issuance, it being the intention that there shall be no priority among any of the Current Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 803. District Obligated to Refund Current Bonds Owned by Government Whenever Feasible; Defeasement Prohibited. So long as the Government is the Owner of any of the Current Bonds, if it appears to the Government that the District is able to refund such Current Bonds in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, or to sell bonds of the District in the open market, at reasonable rates and terms, for loans or bond issues for similar purposes and periods of time, the District will, upon request of the Government, obtain such loan and/or issue such bonds in sufficient amount to repay the Government and will take all such action as may be required in connection therewith.

In addition, so long as the Government is the Owner of any of the Current Bonds, the District shall not issue any bonds or other obligations for the purpose of defeasing or otherwise terminating the lien of the Current Bonds without immediately prepaying all of the then outstanding Current Bonds.

Section 804. Approval and Acceptance of RD Grant Agreement. The RD has agreed to make a grant to the District in the amount of \$707,000 (the "RD Grant") to supplement the proceeds of the Current Bonds in order to provide the total cost of the Project, and the RD has requested the District to approve, accept and execute RD Form 1942-31 (the "RD Grant Agreement"), setting out the terms and conditions upon which said RD Grant will be made. Said RD Grant Agreement is hereby approved, and the Chairman and the Secretary are authorized to execute said RD Grant Agreement on behalf of the District. The Chairman and Secretary are also authorized on behalf of the District to accept any and all other RD Grants offered to the District in connection with the Project and to execute any and all RD Grant Agreements and any other documents as may be requested by the RD in connection with RD Grants which have been and/or which may hereafter be approved for such Project.

Section 805. Approval and Acceptance of ARC Grant Agreement. The Appalachian Regional Commission (the "ARC") has agreed to make a grant to the District in the amount of \$300,000 (the "ARC Grant") to supplement the proceeds of the Current Bonds in order to provide the total cost of the Project, and the ARC has requested the District to approve, accept and execute a certain ARC Grant Agreement (the "ARC Grant Agreement"), setting out the terms and conditions upon which said ARC Grant will be made. Said ARC Grant Agreement is hereby approved, and the Chairman and the Secretary are authorized to execute said ARC Grant Agreement on behalf of the District. The Chairman and Secretary are also authorized on behalf of the District to accept any and all other ARC Grants offered to the District in connection with the Project and to execute any and all ARC Grant Agreements and any other documents as may be requested by the ARC in connection with ARC Grants which have been and/or which may hereafter be approved for such Project.

Section 806. Authorization, Ratification and Confirmation of Approval and Execution of Various Documents. The Commission hereby authorizes, approves, ratifies and confirms the previous action of the officers of the District in approving and executing various documents related to the financing of the Project, including the following:

- (a) Legal Services Agreement with Bond Counsel.
- (b) Legal Services Agreement with Local Counsel.
- (c) Letter of Intent to Meet Conditions of RD Letter of Conditions (RD Form 1942-46).
- (d) Loan Resolution (RD Form 1942-47).
- (e) Agreement for Engineering Services with the Engineers.

Section 807. Authorization of Condemnation to Acquire Easements and/or Sites. In the event that (a) any necessary deeds of easement to allow construction of the Project over the property of any property owner or (b) any necessary deed to the necessary site of any combined and consolidated waterworks and sewer facility of the Project shall not be obtained through negotiation within ten (10) days after the date of adoption of this Resolution and in the event that (1) such

combined and consolidated waterworks and sewer lines cannot be located within the right-of-way of the State and/or County road involved; and/or (2) such combined and consolidated waterworks and sewer facilities cannot be located on a site already owned by the District, Local Counsel is hereby authorized and directed to file condemnation actions to obtain such necessary rights-of-way and/or sites forthwith, without further authorization or direction from the District or the Commission. Local Counsel is further directed to follow the same condemnation procedure in the event that it becomes necessary, through change orders, line extensions and/or errors in the location of property lines and/or property owners, to obtain additional easements, rights-of-way and/or sites for completion of the Project and whenever the necessary deed is not obtained by negotiation at least ten (10) days prior to the date on which construction is contemplated in the respective easement, right-of-way and/or site.

The District further approves the payment from the funds available therefor allocated to the costs of the Project to pay any judgment award, or compromise, determined by Local Counsel with the acquiescence of the Commission, toward the costs of such easements, rights-of-way and/or sites; provided, in each instance, that the payment of such funds to satisfy any judgment, award or compromise must first be approved by the RD; and the Commission further determines that if and to whatever extent the funds available from the proceeds of the financing contemplated by this Resolution shall be inadequate to pay any judgment, award or compromise amount for such easements, rights-of-way and/or sites, or if the District is unable to obtain the approval of the RD for any such payment, the Commission shall take all reasonably necessary actions, within the powers and authority of the Commission, to make such additional amount available from all other available District resources.

ARTICLE 9. SALE OF CURRENT BONDS

Section 901. Sale of Current Bonds. The Current Bonds shall be offered publicly for sale upon the basis of sealed, competitive bids at such time as the Commission shall designate.

A suggested form of "Notice of Bond Sale", a suggested form of "Official Notice of Sale of Bonds" and a suggested form of "Bid Form", having been prepared in advance by Bond Counsel, and all of such documents having been found to be in satisfactory form, a copy of each is hereby ordered to be filed in the records of the Secretary with the Minutes of the meeting at which this Resolution is adopted. The Notice of Bond Sale shall be signed by the Secretary and may be used for the purpose of publishing notice of the sale of the Current Bonds. Copies of such documents shall be furnished to any interested parties who may request same.

In the event that there is no bid or that all bids are rejected, the District may readvertise the sale pursuant to this Resolution.

Section 902. Adjustment in Maturities, Prepayment Provisions and Other Dates, with Consent of Purchaser if Delivery is Delayed. In the event that delivery of the Current Bonds authorized herein is delayed for any reason and the District, with the consent of the Purchaser of the Current Bonds, determines it is in the District's best interest to change the maturities, the applicable prepayment date or any other dates, the District may adjust the same by a Resolution of the Commission approving the adjustments.

ARTICLE 10. CONCLUDING PROVISIONS

Section 1001. Covenant of District to Take All Necessary Action To Assure Compliance with the Code. In order to assure the Owners of the Current Bonds that such Current Bonds shall continue to be legal and that interest thereon will continue to be excludable from gross income for federal income tax purposes and exempt from all Kentucky income taxation, the District covenants to and with the Owners of the Current Bonds to take the following action:

(a) The District will (1) take all actions necessary to comply with the provisions of the Code necessary to assure that interest on the Current Bonds will be excludable from gross income for federal income tax purposes; (2) will take no actions which will violate any of the provisions of the Code; and (3) not use the proceeds of the Current Bonds for any purpose which will cause interest on the Current Bonds or on interim financing obligations, including, but not limited to the Note, issued pursuant to Section 302 hereof to become includable in gross income for federal income tax purposes.

(b) The District hereby certifies that it does not reasonably anticipate that the total principal amount of "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code which the District, or any subordinate entity of the District, will issue during the calendar year during which the Current Bonds are issued, will exceed \$10,000,000; and therefore the District hereby designates the Current Bonds and all interim financing obligations, including, but not limited to the Note, issued pursuant to Section 302 hereof as "qualified tax-exempt obligations".

(c) The District further certifies that the Current Bonds and any and all interim financing obligations of the District are not "private activity bonds" within the meaning of the Code.

(d) The District covenants and agrees to comply with the rebate requirements on certain excess earnings imposed by Section 148 of the Code, and in the event it is determined by the District, upon the advice of Bond Counsel, that the Construction Account, or any other Fund established hereunder, is subject to said rebate requirements and does in fact generate earnings from "non-purpose investments" in excess of the amount which said investments would have earned at a rate equal to the "yield" on the Current Bonds, plus any income attributable to such excess, there shall be established a separate and special fund with the Depository Bank, which fund shall be designated the "Excess Earnings and Rebate Fund", which shall be utilized for the collection and payment of any excess generated from investments and the remittance thereof to the United States of America on or before the anniversary of the fifth (5th) year from the date of the Current Bonds, and once every five (5) years thereafter until the final retirement of the Current Bonds; the last installment, to the extent required, to be made no later than sixty (60) days following the date on which funds sufficient for the complete retirement of the Current Bonds are deposited with any escrow agent. The District further covenants to file any and all reports, if any, as may be required to be filed with the Government with regard to the liability or non-liability of the District as to any such rebate requirements and to maintain records in regard thereto for the period of time required by applicable Treasury regulations.

Section 1002. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, which shall continue in full force and effect.

Section 1003. All Provisions in Conflict Repealed. All motions, resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are to the extent of such conflict hereby repealed. It is hereby specifically ordered and provided that any proceedings heretofore taken for the issuance of other bonds of the District payable or secured in any manner by all or any part of the income and revenues of said System or any part thereof, and which have not been heretofore issued and delivered, are hereby revoked and rescinded, and none of such other bonds shall be issued and delivered. The District covenants to correct by appropriate proceedings any required procedure previously taken invalidly.

Section 1004. Effective Immediately Upon Adoption. This Resolution shall take effect and be effective immediately upon its adoption.

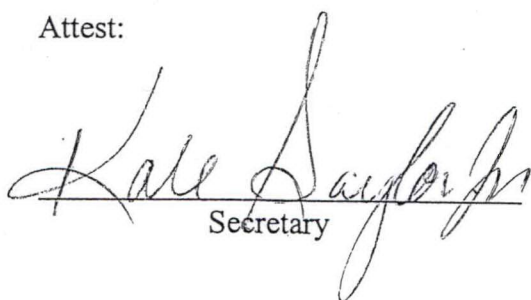
Adopted this June 9, 1998.

BLACK MOUNTAIN UTILITY DISTRICT


Chairman

(Seal of District)

Attest:

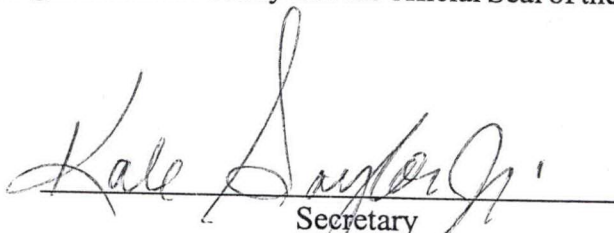

Secretary

CERTIFICATION

I, Kale Saylor, hereby certify that I am the duly qualified and acting Secretary of the Black Mountain Utility District of Harlan County, Kentucky, and that the foregoing Resolution is a true copy of a Resolution duly adopted by the Board of Commissioners of said District, signed by the Chairman of said District and attested under Seal by me as Secretary, at a properly convened meeting of said Board of Commissioners held on June 9, 1998, as shown by the official records of said District in my custody and under my control.

I further certify that said meeting was duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.825, that a quorum was present at said meeting, that said Resolution has not been modified, amended, revoked or repealed, and that same is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature as Secretary and the official Seal of the District this June 9, 1998.


Secretary

(Seal of District)

EXHIBIT A

Schedule of Principal Payments

Payment Due <u>January 1, _____</u>	Principal <u>Payment</u>	Payment Due <u>January 1, _____</u>	Principal <u>Payment</u>
2001	5,000	2020	11,000
2002	5,000	2021	12,000
2003	5,000	2022	12,000
2004	6,000	2023	13,000
2005	6,000	2024	13,000
2006	6,000	2025	13,000
2007	6,000	2026	14,000
2008	6,000	2027	15,000
2009	7,000	2028	15,000
2010	7,000	2029	16,000
2011	7,000	2030	17,000
2012	8,000	2031	17,000
2013	8,000	2032	19,000
2014	8,000	2033	19,000
2015	9,000	2034	20,000
2016	9,000	2035	21,000
2017	10,000	2036	22,000
2018	10,000	2037	23,000
2019	10,000	2038	24,000
	11,000		26,000

EXHIBIT B

(FORM OF FULLY REGISTERED BOND)

UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
COUNTY OF HARLAN
BLACK MOUNTAIN UTILITY DISTRICT
WATER AND SEWER REVENUE BONDS, SERIES 1998

No. R- _____ Interest Rate: _____ % \$ _____

KNOW ALL MEN BY THESE PRESENTS:

That the Black Mountain Utility District (the "District"), acting by and through its Board of Commissioners (the "Commission"), a public body corporate in Harlan County, Kentucky, for value received, hereby promises to pay to

the registered owner hereof, or to its registered assigns, solely from the fund hereinafter identified, the sum of

_____ DOLLARS (\$ _____),

on the first day of January, in years and installments as follows:

<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>
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[Here the printer of the Current Bond will print the maturities of the Current Bonds purchased by the registered Owner]

and in like manner, solely from said fund, to pay interest on the balance of said principal sum from time to time remaining unpaid, at the Interest Rate specified above, semiannually on the first days of January and July in each year, beginning with the first January or July after the date of this Bond, until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable hereto, both principal and interest being payable, without deduction for exchange or collection charges, in lawful money of the United States of America, at the address of the registered owner shown on the registration book of the District.

This Bond is issued by the District under and in full compliance with the Constitution and Statutes of the Commonwealth of Kentucky, including Chapters 58 and 74 of the Kentucky Revised Statutes (collectively the "Act"), and pursuant to a duly adopted Bond Resolution of the District authorizing same (the "Current Bond Resolution"), to which Current Bond Resolution reference is hereby made for a description of the nature and extent of the security thereby created, the rights and limitations of rights of the registered owner of this Bond, and the rights, obligations and duties of the District, for the purpose of financing the cost (not otherwise provided) of the construction of extensions, additions and improvements to the existing combined and consolidated waterworks and sewer system of the District (said existing combined and consolidated waterworks and sewer system, together with said extensions, additions and improvements, being hereinafter referred to as the "System").

This Bond ranks on a parity as to security and source of payment with certain outstanding (i) Black Mountain Utility District Water and Sewer Revenue Bonds of 1988, dated March 25, 1993 (the "Bonds of 1988"), authorized by a Resolution adopted by the Commission of the District on January 17, 1989 (the "1988 Bond Resolution"); (ii) Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1994A and 1994B, dated December 15, 1994 (the "Bonds of 1994"), authorized by a Resolution adopted by the Commission of the District on September 13, 1994 (the "1994 Bond Resolution"); and (iii) Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1995A and 1995B, dated September 7, 1995 (the "Bonds of 1995"), authorized by a Resolution adopted by the Commission of the District on May 16, 1995 (the "1995 Bond Resolution"); [hereinafter the Bonds of 1988, Bonds of 1994 and Bonds of 1995 shall be collectively referred to as the "Prior Bonds", and the 1988 Bond Resolution, the 1994 Bond Resolution and the 1995 Bond Resolution shall be collectively referred to as the "Prior Bond Resolution"]. Accordingly, this Bond, together with any bonds ranking on a parity herewith, is payable from and secured on a first lien basis by a pledge of the gross revenues to be derived from the operation of the System.

This Bond has been issued in full compliance with the Current Bond Resolution and the Prior Bond Resolution; and this Bond, and any bonds ranking on a parity therewith that may be issued and outstanding under the conditions and restrictions of the Current Bond Resolution and the Prior Bond Resolution, are and will continue to be payable from revenues which shall be set aside in a fund for that purpose and identified as the "Black Mountain Utility District Bond and Interest Sinking Fund", created in the Prior Bond Resolution.

This Bond does not constitute an indebtedness of the District within the meaning of any constitutional or statutory provisions or limitations and is payable solely out of the revenues of the System. As provided in the Current Bond Resolution, the District covenants that so long as any of the Prior Bonds and/or this Bond, are outstanding, the System will be continuously owned and operated by the District as a revenue producing public undertaking within the meaning of the aforesaid Act for the security and source of payment of the Prior Bonds and of this Bond, and that the District will fix, and if necessary adjust, from time to time, such rates for the services and facilities of the System and will collect and account for the revenues therefrom sufficient to pay

promptly the principal of and interest on the Prior Bonds, this Bond and all other bonds ranking on a parity therewith as may be outstanding from time to time, to pay the cost of operation and maintenance of the System and to provide for the depreciation thereof.

The District has reserved the right to issue additional bonds ranking on a parity as to security and source of payment with this Bond in order to complete the Project, and to finance future extensions, additions and improvements to the System, provided the necessary requirements of the Current Bond Resolution have been complied with by the District.

This Bond shall be registered as to principal and interest in the name of the owner hereof, after which it shall be transferable only upon presentation to the Secretary of the District as the Bond Registrar, with a written transfer duly acknowledged by the registered owner or his duly authorized attorney, which transfer shall be noted upon this Bond and upon the book of the District kept for that purpose.

The District, at its option, shall have the right to prepay, on any interest payment date on and after January 1, 2008, in inverse chronological order of the installments due on this Bond, the entire principal amount of this Bond then remaining unpaid, or such lesser portion thereof, in a multiple of One Hundred Dollars (\$100), as the District may determine, at a price in an amount equivalent to the principal amount to be prepaid plus accrued interest to the date of prepayment, without any prepayment premium. Notice of such prepayment shall be given by registered mail to the registered owner of this Bond or his assignee, at least 30 days prior to the date fixed for prepayment. Notice of such prepayment may be waived with the written consent of the registered owner of this Bond.

So long as the registered owner of this Bond is the United States of America, or any agency thereof, the entire principal amount of this Bond, or installments in multiples of \$100, may be prepaid at any time in inverse chronological order of the installments due.

Upon default in the payment of any principal or interest payment on this Bond, or upon failure by the District to comply with any other provision of this Bond or with any provision of the Current Bond Resolution, the registered owner may, at his option, institute all rights and remedies provided by law or by said Current Bond Resolution.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed in due time, form and manner as required by law, and that the face amount of this Bond, together with all other obligations of the District, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

IN WITNESS WHEREOF said Black Mountain Utility District, by its Board of Commissioners, has caused this Bond to be executed by its Chairman, its corporate seal to be hereunto affixed, and attested by its Secretary, on the date of this Bond, which is

BLACK MOUNTAIN UTILITY DISTRICT
Harlan County, Kentucky

By _____
Chairman

Attest:

Secretary

(Seal of District)

PROVISION FOR REGISTRATION

This Bond shall be registered on the registration book of the District kept for that purpose by the Secretary, as Bond Registrar, upon presentation hereof to said Secretary, who shall make notation of such registration in the registration blank, and this Bond may thereafter be transferred only upon written transfer acknowledged by the registered owner or its attorney, such transfer to be made on said book and endorsed hereon.

ASSIGNMENT

Date of Registration	Name of Registered Owner	Signature of Bond Registrar

For value received, this Bond is hereby assigned, without recourse and subject to all of its terms and conditions, unto _____, this ____ day of _____, _____.

By: _____

EXHIBIT C

REQUISITION CERTIFICATE

Re: Black Mountain Utility District Water and Sewer Revenue Bonds, Series 1998, in the amount of \$472,000

The undersigned hereby certify as follows:

1. That they are the signatories required for construction and/or administrative draws pursuant to the Bond Resolution adopted by the Black Mountain Utility District (the "District") of Harlan County, Kentucky.

2. That the named firms and/or persons set forth on Exhibit A attached hereto are now entitled to the aggregate sum of \$ _____, itemized as set forth in said Exhibit A and as per approved invoices attached hereto:

3. That upon said amount being lent to said District and/or obtained by said District from the proceeds of the Current Bonds and/or other sources, the undersigned approve such expenditure and the payment of said amounts to said firms and/or persons, either directly or from amounts deposit in the "Black Mountain Utility District Construction Account", at the Harlan National Bank, Harlan, Kentucky.

4. That we hereby certify that we have carefully inspected the work and, as a result of our inspection and to the best of our knowledge and belief, the amounts shown in this Requisition Certificate are correct and the work has been performed in accordance with the agreements between the District and the parties requesting payment.

IN TESTIMONY WHEREOF, witness the signature of the undersigned, this ____ day of _____, 19____.

BLACK MOUNTAIN UTILITY DISTRICT

QUEST ENGINEERS, INC.

By _____
Chairman

By _____
Registered Professional Engineer
State of Kentucky No. _____

Approved on _____

Approved on _____

Rural Development

Amount expended heretofore \$ _____

By _____
Authorized RD Official

Amount approved herein _____

Approved on _____

Total _____

EXHIBIT A TO REQUISITION CERTIFICATE

Name of Entity/Person

Amount

ENCLOSE THIS STUB
WHEN PAYING BY MAIL
FOR PROPER CREDIT

Proposed Rate Increase Notice Typo Correction

The Public Notice announcing the proposed rate increase recently published in the Harlan Daily Enterprise gave the wrong post office box number for submitting any comments on the proposed rates via mail to the Public Service Commission. The correct address is: Public Service Commission, P.O. Box 615, Frankfort, KY 40602. The Public Service Commission is still currently accepting comments.

CODES: WT = WATER
SWR = SEWER
GS = GAS

UC (USAGE CODES):

E = ESTIMATED
M = METER CHANGE

NOT RESPONSIBLE
FOR MAIL DELIVERY

APPROVED BY STATE BOARD OF ACCOUNTS