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November 30, 2015

VIA UPS OVERNIGHT DELIVERY

Mr. Jeff R. Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

RECEIVED

DEC 01 2015

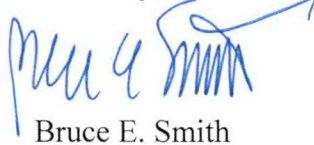
PUBLIC SERVICE
COMMISSION

Re: Case No. 2015- _____
Jessamine-South Elkhorn Water District
Krs 278.300 Application

Dear Mr. Derouen:

Delivered under cover of this letter is an original and ten (10) copies of the Applicant's Request to approve Financing Arrangement.

Sincerely,



Bruce E. Smith

Enclosures

g:\...JSEWD\Forest Hills\App to Approve Financing\Derouen ltr 113015

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

DEC 01 2015

PUBLIC SERVICE
COMMISSION

In the Matter of:

**APPLICATION OF JESSAMINE-SOUTH)
ELKHORN WATER DISTRICT TO)
FINANCE AN APPROVED WATERWORKS) CASE NO 2015 - _____
IMPROVEMENT PROJECT PURSUANT TO)
KRS 278.300)**

APPLICANT’S REQUEST TO APPROVE FINANCING ARRANGEMENT

Pursuant to Ordering Paragraph 10 of the Kentucky Public Service Commission’s Order of August 3, 2015 in Case No. 2014-00084 (“Order”) and KRS 278.300, the Applicant, Jessamine-South Elkhorn Water District (the “District”), by counsel, submits this Application in which it requests that the Commission approve its financing arrangement for the construction of the 750,000 gallon elevated water storage tank off Catnip Hill Road (“Project”) for which a Certificate of Public Convenience and Necessity was approved by the Commission in the Order. The District further requests that the Commission approve the District’s plan to enter into a loan obligation with Kentucky Rural Water Finance Corporation for such financing. Following are responses and attachments in compliance with the Commission’s regulations:

1. The District’s office address is P.O. Box 721, Nicholasville, Kentucky 40340-0721. Its principal officers are listed in its 2014 Annual Report, which is on file with the

Commission. The contact person at the District's office is Kim Miller; telephone (859)881-0589; fax (859)881-5080; and email: jessaminesouth@windstream.net;

2. The District is a non-profit water district organized under KRS Chapter 74 and has no separate articles of incorporation or by-laws;

3. A description of the District's water system and its property, stated at original cost by accounts, is contained in its 2014 Annual Report on file with the Commission, which is incorporated herein by reference. All required normal financial schedules and other data are contained in the Annual Report;

4. The District states that there has been no change that is material in nature in the financial condition or operation of the District since December 31, 2014. As the District has annual gross revenues less than \$5,000,000, the District requests that the PSC find that the information in paragraphs 3 and 4 meets the financial exhibit requirements contained in 807 KAR 5:001, Section 12(b);

5. The project's cost of construction and cost of operation for the Project are reflected in **Exhibit "A"** attached hereto. In support of Exhibit "A", the Bid Tabulation Summary for the Project is attached as **Exhibit "B"**.

6. The Applicant will not issue any stock.

7. All of the following funds are to be used for construction of the Project. Attached as **Group Exhibit "C"** is a letter from Kentucky Rural Water Finance Corporation giving preliminary approval for funding. Appended to the letter is information reflecting the details of the financing. This debt is to be secured by the District's revenues. Additional funding for the proposed tank is to be provided from the proceeds of (i) a Kentucky State Grant (HB 608 - 229N-2008) in the amount of \$1,000,000.00; (ii) three (3) legislative grants assigned to the

Accordingly, the Applicant respectfully requests that the Commission approve its financing arrangement for the Project and to enter into a loan obligation with Kentucky Rural Water Finance Corporation.

Anthony G. Martin, Esq.
P.O. Box 1812
Lexington, Kentucky 40588
agmlaw@aol.com
(859)268-1451

AND



Bruce E. Smith, Esq.
Henry E. Smith, Esq.
Bruce E. Smith Law Offices, PLLC
201 South Main Street
Nicholasville, Kentucky 40356
bruce@smithlawoffice.net
(859)885-3393
CO-COUNSEL FOR DISTRICT

PSC CASE NUMBER: 2014-00084

FINAL ENGINEERING REPORT
CATNIP HILL PIKE 0.75 MG
ELEVATED STORAGE TANK, PROJECT # 4049
Jessamine County, Kentucky

Jessamine-South Elkhorn Water District
802 S. Main Street
Nicholasville, KY 40356

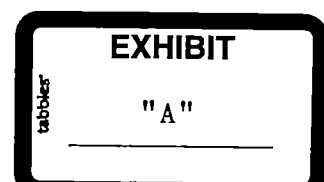
STATEMENT OF PURPOSE

The purpose of this report is to present the Funding/Construction Budget based on the low bid received and committed funding sources. This report is the final issue preparatory to approval and issuance of the necessary financing approval under the application of Case Number 2014 - 00084.

PROJECT DESCRIPTION

The project consists of construction of a 750,000 gallon (0.75MG) elevated water storage tank. The structure is to be placed on a 1.0 acre tract which was purchased by Jessamine-South Elkhorn Water District in 2003. The tract is located northerly of Catnip Hill Pike in the northeasterly corner of the Sue Switzer farm. There is an existing 12" distribution main located adjacent to and contiguous to this tract which feeds directly to three (3) major branches of the District's distribution system.

The operating elevations of the proposed tank have been established on the existing points of the operating hydraulic gradient of the District's system. Presently. There are two (2) other elevated tanks operating on this same hydraulic gradient. This gradient is served by an existing duplex pump system located at the District's supply source on a 30" transmission main of the Kentucky American Water Company, located at the Fayette/Jessamine County line. These pumps were installed in 2006 and were sized for future expansion which includes this proposed 0.75 MG elevated storage tank. Therefore, no additional booster pumps are required.



FUNDING/CONSTRUCTION BUDGET

CATNIP HILL PIKE 0.75 MG
ELEVATED STORAGE TANK, PROJECT # 4049
Jessamine County, Kentucky

Jessamine-South Elkhorn Water District
802 S. Main Street
Nicholasville, KY 40356

CONSTRUCTION

	Project Cost Classification	<u>Amount</u>
(1)	Administrative	\$50,000
	Legal	\$5,000
(2)	Land, Appraisals, Easements	\$0
	Relocation Expense	\$0
	Planning	\$0
	Design Fee	\$125,000
	Construction Engineering	\$60,000
	Inspection Fee	\$85,000
	Engineering Fees - Other	\$45,000
	Construction	\$1,425,736
	Equipment	\$0
(3)	Miscellaneous - Other	\$38,966
	Contingencies	\$87,064
	TOTAL PROJECT COST	\$1,921,766

(1) KIA Project Administration Fee

(2) The tank site consisting of one (1) acre and access easement was purchased in 2004.

(3) Kentucky Infrastructure Fee and Kentucky Rural Water Finance Corporation Fees

FUNDING

Funding for this project has previously been obtained from the following sources

Funding Source	Loan or Grant ID	Amount	Date
HB 608 Non-Coal Grant	229N-2008	\$1,000,000	12-17-10
HB 235 Non-Coal Grant	3N-2014	\$440,000	07-15-14
KRWA Loan	Preliminarily Approved	\$470,000	N/A
DISTRICT	N/A	\$11,766	N/A
TOTAL FUNDING		\$1,921,766	

COST OF OPERATION

<u>DESCRIPTION</u>	<u>COST</u>
Mowing & Grounds Maintenance	\$300.00
Electrical	\$400.00
Total Annual Cost	\$700.00

Note:

- a. Tank will be filled via existing booster pumps, which were sized to accommodate this proposed storage tank.
- b. Mowing and electrical costs are based on actual cost for similar tank currently in operation.
- c. Pumping cost will not increase since demand stays unchanged.
- d. All other operation costs remain unchanged.

EXHIBIT

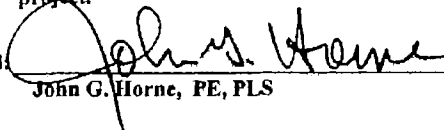
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tabbies

BID TABULATION SUMMARY
CATNIP HILL PIKE 750,000 GALLON ELEVATED WATER STORAGE TANK, PROJECT #4049
 Jessamine County, Kentucky
 October 6, 2015

Item #	Description of Work	Unit	Quantity	CALDWELL TANKS, INC.		PHOENIX FABRICATORS AND ERECTORS, INC.	
				Unit Bid	Total Cost	Unit Bid	Total Cost
1	750,000 Million Gallon Elevated Water Storage Tank To include: 750,000 Million Gallon Elevated Torus Bottom Multi-Column Tank, Tank Foundation, Tank Painting, Testing, and Chlorinating Tank	LS	LS	\$ 1,294,586.00	\$ 1,294,586.00	\$ 1,269,456.00	\$ 1,269,456.00
2	8' Perimeter Fence	LF	780	\$ 22.00	\$ 17,160.00	\$ 26.00	\$ 20,280.00
3	16' Wide Double Gate	EA	1	\$ 1,800.00	\$ 1,800.00	\$ 1,500.00	\$ 1,500.00
4	Telemetry	LS	LS	\$ 15,000.00	\$ 15,000.00	\$ 15,500.00	\$ 15,500.00
5	Storm Sewer Manhole w/ Beehive Grate	EA	2	\$ 3,000.00	\$ 6,000.00	\$ 5,000.00	\$ 10,000.00
6	18" ADS Storm Pipe	LF	288	\$ 193.00	\$ 55,584.00	\$ 50.00	\$ 14,400.00
7	12" D.I. Watermain	LF	100	\$ 90.00	\$ 9,000.00	\$ 100.00	\$ 10,000.00
8	Fire Hydrant Assembly	EA	1	\$ 5,200.00	\$ 5,200.00	\$ 4,500.00	\$ 4,500.00
9	Watermain Tie-in 3-12" Valves and Tee	EA	1	\$ 12,800.00	\$ 12,800.00	\$ 5,500.00	\$ 5,500.00
10	Transducer Pit	LS	LS	\$ 13,200.00	\$ 13,200.00	\$ 6,000.00	\$ 6,000.00
11	Transformer & Conduit	LF	LS	\$ 17,000.00	\$ 17,000.00	\$ 17,000.00	\$ 17,000.00
12	Paved Access Road and Parking Lot	LS	LS	\$ 22,500.00	\$ 22,500.00	\$ 31,000.00	\$ 31,000.00
13	Eastern White Pine	EA	8	\$ 90.00	\$ 720.00	\$ 200.00	\$ 1,600.00
14	Cotoneaster	EA	30	\$ 115.00	\$ 3,450.00	\$ 100.00	\$ 3,000.00
15	Regrade/Seed	LS	LS	\$ 4,500.00	\$ 4,500.00	\$ 3,000.00	\$ 3,000.00
16	Cathodic Protection	LS	LS	\$ 13,500.00	\$ 13,500.00	\$ 13,000.00	\$ 13,000.00
TOTAL PROJECT BID				\$ 1,492,000.00		TOTAL PROJECT BID	\$ 1,425,736.00

I hereby certify that the amounts shown hereon are a true and correct copy of the bids received 2:00 pm EST on TUESDAY, October 6, 2012 for the referenced project.

Signed:  Dated: 10-7-15
 John G. Horne, PE, PLS



Kentucky Rural Water Finance Corporation

Helping utilities finance infrastructure improvements

November 24, 2015

Mr. Bruce Smith
Jessamine South Elkhorn Water District
802 South Main Street
Nicholasville, KY 40356

RE: Funding through the Kentucky Rural Water Finance Corporation

Dear Mr. Smith:

It is my understanding that the Water District would like to pursue financing for an upcoming project and would like to consider borrowing funds through the Kentucky Rural Water Finance Corporation's Flexible Term Finance Corporation.

Please accept this document as a letter of intent to provide financing to the Jessamine South Elkhorn Water District. This commitment is contingent upon receipt and execution of all final loan documents, as well as the Water District's ability to meet debt service coverage of 1.20x using Maximum Annual Debt Service including the new debt. Once a bond sale occurs to lock in the rate, the executed loan documents (prepared by bond counsel, Rubin & Hays) are returned to the Kentucky Rural Water Finance Corporation and all regulatory conditions met, funding for your project will be available.

Thank you for your interest in the Kentucky Rural Water Finance Corporation's Flexible Term Finance Program. Should you have any questions, please feel free to contact me at 270.843.2291.

Sincerely,

Gary Larimore
Secretary/Treasurer

GL:bs

cc: Ms. Kristen Millard

Preliminary

\$470,000

Jessamine South Elkhorn Water District

Potential Loan through the Kentucky Rural Water Finance Corporation

Sources & Uses

Dated 01/01/2016 | Delivered 01/01/2016

Sources Of Funds

Par Amount of Bonds	\$470,000.00
Reoffering Premium	11,765.90

Total Sources **\$481,765.90**

Uses Of Funds

Total Underwriter's Discount (1.750%)	8,225.00
Costs of Issuance	23,500.00
Deposit to Project Construction Fund	450,000.00
Rounding Amount	40.90

Total Uses **\$481,765.90**

Preliminary

\$470,000

Jessamine South Elkhorn Water District

Potential Loan through the Kentucky Rural Water Finance Corporation

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
01/01/2016	-	-	-	-	-
07/01/2016	-	-	8,020.00	8,020.00	-
12/31/2016	-	-	-	-	8,020.00
01/01/2017	25,000.00	1.950%	8,020.00	33,020.00	-
07/01/2017	-	-	7,776.25	7,776.25	-
12/31/2017	-	-	-	-	40,796.25
01/01/2018	25,000.00	2.250%	7,776.25	32,776.25	-
07/01/2018	-	-	7,495.00	7,495.00	-
12/31/2018	-	-	-	-	40,271.25
01/01/2019	25,000.00	2.700%	7,495.00	32,495.00	-
07/01/2019	-	-	7,157.50	7,157.50	-
12/31/2019	-	-	-	-	39,652.50
01/01/2020	25,000.00	2.850%	7,157.50	32,157.50	-
07/01/2020	-	-	6,801.25	6,801.25	-
12/31/2020	-	-	-	-	38,958.75
01/01/2021	30,000.00	2.900%	6,801.25	36,801.25	-
07/01/2021	-	-	6,366.25	6,366.25	-
12/31/2021	-	-	-	-	43,167.50
01/01/2022	30,000.00	3.150%	6,366.25	36,366.25	-
07/01/2022	-	-	5,893.75	5,893.75	-
12/31/2022	-	-	-	-	42,260.00
01/01/2023	30,000.00	3.900%	5,893.75	35,893.75	-
07/01/2023	-	-	5,308.75	5,308.75	-
12/31/2023	-	-	-	-	41,202.50
01/01/2024	30,000.00	3.900%	5,308.75	35,308.75	-
07/01/2024	-	-	4,723.75	4,723.75	-
12/31/2024	-	-	-	-	40,032.50
01/01/2025	30,000.00	3.800%	4,723.75	34,723.75	-
07/01/2025	-	-	4,153.75	4,153.75	-
12/31/2025	-	-	-	-	38,877.50
01/01/2026	35,000.00	3.700%	4,153.75	39,153.75	-
07/01/2026	-	-	3,506.25	3,506.25	-
12/31/2026	-	-	-	-	42,660.00
01/01/2027	35,000.00	3.750%	3,506.25	38,506.25	-
07/01/2027	-	-	2,850.00	2,850.00	-
12/31/2027	-	-	-	-	41,356.25
01/01/2028	35,000.00	3.800%	2,850.00	37,850.00	-
07/01/2028	-	-	2,185.00	2,185.00	-
12/31/2028	-	-	-	-	40,035.00
01/01/2029	35,000.00	3.800%	2,185.00	37,185.00	-
07/01/2029	-	-	1,520.00	1,520.00	-
12/31/2029	-	-	-	-	38,705.00
01/01/2030	40,000.00	3.800%	1,520.00	41,520.00	-
07/01/2030	-	-	760.00	760.00	-
12/31/2030	-	-	-	-	42,280.00
01/01/2031	40,000.00	3.800%	760.00	40,760.00	-
12/31/2031	-	-	-	-	40,760.00
Total	\$470,000.00	-	\$149,035.00	\$619,035.00	-

Yield Statistics

Bond Year Dollars	\$4,070.00
Average Life	8.660 Years
Average Coupon	3.6617936%
Net Interest Cost (NIC)	3.5747936%
True Interest Cost (TIC)	3.5409382%
Bond Yield for Arbitrage Purposes	3.3018697%
All Inclusive Cost (AIC)	4.2577823%
IRS Form 8038	
Net Interest Cost	3.3038433%
Weighted Average Maturity	8.624 Years

Raymond James

Preliminary

\$470,000

Jessamine South Elkhorn Water District

Potential Loan through the Kentucky Rural Water Finance Corporation

Net Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Net New D/S
12/31/2016	-	-	8,020.00	8,020.00	8,020.00
12/31/2017	25,000.00	1.950%	15,796.25	40,796.25	40,796.25
12/31/2018	25,000.00	2.250%	15,271.25	40,271.25	40,271.25
12/31/2019	25,000.00	2.700%	14,652.50	39,652.50	39,652.50
12/31/2020	25,000.00	2.850%	13,958.75	38,958.75	38,958.75
12/31/2021	30,000.00	2.900%	13,167.50	43,167.50	43,167.50
12/31/2022	30,000.00	3.150%	12,260.00	42,260.00	42,260.00
12/31/2023	30,000.00	3.900%	11,202.50	41,202.50	41,202.50
12/31/2024	30,000.00	3.900%	10,032.50	40,032.50	40,032.50
12/31/2025	30,000.00	3.800%	8,877.50	38,877.50	38,877.50
12/31/2026	35,000.00	3.700%	7,660.00	42,660.00	42,660.00
12/31/2027	35,000.00	3.750%	6,356.25	41,356.25	41,356.25
12/31/2028	35,000.00	3.800%	5,035.00	40,035.00	40,035.00
12/31/2029	35,000.00	3.800%	3,705.00	38,705.00	38,705.00
12/31/2030	40,000.00	3.800%	2,280.00	42,280.00	42,280.00
12/31/2031	40,000.00	3.800%	760.00	40,760.00	40,760.00
Total	\$470,000.00	-	\$149,035.00	\$619,035.00	\$619,035.00

Raymond James

Public Finance

Preliminary

\$470,000

Jessamine South Elkhorn Water District

Potential Loan through the Kentucky Rural Water Finance Corporation

Pricing Summary

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price	Dollar Price
01/01/2017	Serial Coupon	1.950%	0.930%	25,000.00	101.012%	25,253.00
01/01/2018	Serial Coupon	2.250%	1.340%	25,000.00	101.789%	25,447.25
01/01/2019	Serial Coupon	2.700%	1.820%	25,000.00	102.557%	25,639.25
01/01/2020	Serial Coupon	2.850%	2.080%	25,000.00	102.940%	25,735.00
01/01/2021	Serial Coupon	2.900%	2.290%	30,000.00	102.866%	30,859.80
01/01/2022	Serial Coupon	3.150%	2.510%	30,000.00	103.544%	31,063.20
01/01/2023	Serial Coupon	3.900%	2.840%	30,000.00	106.686%	32,005.80
01/01/2024	Serial Coupon	3.900%	3.050%	30,000.00	105.993%	31,797.90
01/01/2025	Serial Coupon	3.800%	3.190%	30,000.00	104.739%	31,421.70
01/01/2026	Serial Coupon	3.700%	3.300%	35,000.00	103.383%	36,184.05
01/01/2027	Serial Coupon	3.750%	3.520%	35,000.00	102.082%	35,728.70
01/01/2028	Serial Coupon	3.800%	3.630%	35,000.00	101.641%	35,574.35
01/01/2029	Serial Coupon	3.800%	3.720%	35,000.00	100.818%	35,286.30
01/01/2030	Serial Coupon	3.800%	3.780%	40,000.00	100.215%	40,086.00
01/01/2031	Serial Coupon	3.800%	3.870%	40,000.00	99.209%	39,683.60
Total	-	-	-	\$470,000.00	-	\$481,765.90

Bld Information

Par Amount of Bonds	\$470,000.00
Reoffering Premium or (Discount)	11,765.90
Gross Production	\$481,765.90
Total Underwriter's Discount (1.750%)	\$(8,225.00)
Bld (100.753%)	473,540.90
Total Purchase Price	\$473,540.90
Bond Year Dollars	\$4,070.00
Average Life	8.660 Years
Average Coupon	3.6617936%
Net Interest Cost (NIC)	3.5747936%
True Interest Cost (TIC)	3.5409382%

Raymond James

MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT

This Mortgage, Assignment of Rents and Leases and Security Agreement (the "Mortgage") is made by **Jessamine-South Elkhorn Water District**, a Kentucky rural water district, ("Mortgagor"), with an address of P.O. Box 731, Nicholasville, Kentucky 40356, for the benefit of **The Farmers Bank, Nicholasville, Kentucky**, a Kentucky banking corporation, ("Mortgagee"), with an address of 200 North Main Street, Nicholasville, Jessamine County, Kentucky 40356 as follows:

1. GRANT.

- 1.1 **Property.** Mortgagor hereby grants, bargains, mortgages, warrants, sells, encumbers, conveys, assigns and transfers to Mortgagee, its successors and assigns forever, all estate, title and interest of Mortgagor in and to the following, now existing or hereafter arising (collectively, the "Property"):
- 1.1.1 the real estate described in Exhibit A attached hereto ("Real Estate") and by reference made a part hereof, all of the estate, title and interest of Mortgagor in law or equity, of, in and to such Real Estate and all of the privileges, easements and appurtenances belonging to such Real Estate, and all heretofore or hereafter vacated streets or alleys which abut such Real Estate;
- 1.1.2 all buildings and improvements of every kind and description now existing or hereafter placed on such Real Estate and all fixtures, machinery, appliances, equipment, furniture and personal property of every kind whatsoever owned by Mortgagor and located in or on, or attached to, and used or intended to be used in connection with the operation of such Real Estate, or the buildings, structures or other improvements thereon or in connection with any construction being conducted or which may be conducted thereon, including but not limited to the electric, water, laundry, incinerating and power equipment; engines; pipes; pumps; tanks; motors; conduits; switchboards; plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating and communications apparatus; boilers, ranges, furnaces, oil burners or units thereof; radiators; heaters; air-cooling and air conditioning apparatus; elevators; escalators; awnings, doors, and windows; attached cabinets; partitions; ducts and compressors; rugs and carpets; draperies; and all other furniture and furnishings; together with all building materials and equipment owned by Mortgagor now or hereafter delivered to the Real Estate and intending to be installed therein;
- 1.1.3 all rents, leases, issues and profits arising out of any of the foregoing, including all insurance policies and payments made under insurance policies relating directly or indirectly to any of the items comprising the Property;
- 1.1.4 all contracts for or related to the design, development, construction, management, maintenance or operation, leasing, sale or refinancing of such Real Estate, all licenses and permits relating to construction of any such contracts, any bonds or warranties assuring payment or performance thereunder, and all plans, designs,

specifications, books, records and escrow accounts related thereto;

- 1.1.5 all damages, claims, losses, judgments, awards and settlements previously or hereafter made or occurring relating to, directly or indirectly, the Real Estate or any of the other items comprising the Property, including but not limited to those resulting from: (i) condemnation proceedings; (ii) the taking under the power of eminent domain; (iii) any award for change of grade or streets; and (iv) claims in contract or tort, including but not limited to those relating to items described in Section 1.1.4, above;
- 1.1.6 all moneys, credits and other property of any nature whatsoever of Mortgagor now or hereafter in the possession of, in transit to or from, under the custody or control of, or on deposit with (whether held by Mortgagor individually or jointly with another) Mortgagee or any affiliate of Mortgagee, including but not limited to cash collateral accounts, construction disbursement accounts and reserve accounts;
- 1.1.7 all of the following relating, directly or indirectly, to the Real Estate or any of the other items comprising the Property: Mortgagor's accounts, inventory, equipment and general intangibles as such terms are defined under the applicable version of the Uniform Commercial Code; and
- 1.1.8 all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing, and the proceeds of all of the foregoing.
- 1.2 **Security.** The grant described in Section 1.1, above, to have and to hold the Property is given to Mortgagee and its successors and assigns forever, for the uses and purposes herein set forth to secure the payment of the Indebtedness as defined in Section 2, below, and the performance of all of the obligations of Mortgagor hereunder.
2. **INDEBTEDNESS.** This conveyance is made to secure: (i) the payment of the promissory note of Mortgagor of even date herewith payable to the order of Mortgagee in the original principal amount of \$450,000.00 (the "Note"), which Note has a maturity date of March 28, 2013, and all extensions, renewals, reamortizations, modifications, and amendments thereof and thereto; (ii) all additional indebtedness as set forth more fully in Section 8, if marked, hereof and all advances or expenses of any kind made by Mortgagee pursuant to the provisions of this Mortgage; and (iii) all advances or expenses of any kind made by Mortgagee pursuant to the provisions of any document executed in connection with the Note (the foregoing collectively referred to as the "Indebtedness"). All references to the Note will mean the Note, and any amendments, modifications or restatements thereof or thereto from time to time.
3. **REPRESENTATIONS, WARRANTIES AND COVENANTS**

Mortgagor covenants, represents, warrants and agrees with Mortgagee as follows:

- 3.1 Title.** Mortgagor is the lawful owner of the Property; title to the Property is vested in Mortgagor and is free, clear and unencumbered except for easements and restrictions of record, non-delinquent real estate taxes and assessments ("Permitted Exceptions"); there has been no prior assignment of any of Mortgagor's rights in the Property except for Permitted Exceptions; Mortgagor has good right and full power to convey and encumber the Property and to execute this Mortgage; Mortgagor will make such further assurances of title as Mortgagee may require; and Mortgagor will warrant and defend the Property against all claims and demands whatsoever, except for the Permitted Exceptions.
- 3.2 Indebtedness.** Mortgagor will promptly pay, or cause to be paid, the Indebtedness when due.
- 3.3 Impositions.** Mortgagor will pay, or cause to be paid, when due:
- 3.3.1** All of the following (hereinafter collectively called the "Impositions"): all real estate taxes, personal property taxes, assessments, water and sewer rates and charges, and all other governmental levies and charges, of every kind and nature whatsoever, general and special, ordinary and extraordinary, which are assessed, levied, confirmed, imposed or become a lien upon or against the Property or any portion thereof, and all taxes, assessments and charges upon the rents, issues, income or profits of the Property, or which become payable with respect thereto or with respect to the occupancy, use or possession of the Property, whether such taxes, assessments or charges are levied directly or indirectly. If Mortgagee is not establishing an escrow for Impositions, then within 20 days after demand therefor, Mortgagor will deliver to Mortgagee the original, or a photostatic copy, of the official receipt evidencing payment of Impositions or other proof of payment satisfactory to Mortgagee. Notwithstanding the provisions of this Section, any tax or special assessment that is a lien on the Property may be paid in installments provided that each installment is paid on or prior to the date when the same is due without the imposition of any penalty.
- 3.3.2** On the first day of each month after the occurrence of any one or more Events of Default (as that term is defined below), a deposit with Mortgagee equal to one-twelfth of the annual charges, as estimated by Mortgagee, for the Impositions and premiums for insurance required under Section 3.7, below. Such amount will be held by or on behalf of Mortgagee and will be applied to pay such Impositions and premiums when the same becomes due. Mortgagor will not be required to pay any interest or earnings on such sums. Mortgagor hereby pledges all such sums as additional collateral for the Indebtedness. If the amount held by Mortgagee is not sufficient to pay the Impositions and premiums when due, Mortgagor will, promptly upon request of Mortgagee, pay to Mortgagee any amount necessary to make up

such deficiency.

- 3.4 Compliance with Laws.** Mortgagor will promptly comply or cause compliance with all present and future laws, ordinances, rules, regulations and other requirements of all governmental authorities having or claiming jurisdiction of or with respect to the Property or any portion thereof or the use or occupancy thereof. Mortgagor will observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including but not limited to zoning variances, special exceptions and non-conforming uses), privileges, franchises and concessions which are applicable to the Property. Mortgagor will take appropriate measures to prevent, and will not engage in or knowingly permit, any illegal activities at the Property that could endanger tenants or visitors, result in damage to the Property, result in forfeiture of the Property, or otherwise materially impair the lien created by this Mortgage or Mortgagee's interest in the Property. Mortgagor represents and warrants to Mortgagee that no portion of the Property has been or will be purchased with the proceeds of any illegal activity.
- 3.5 Condition of Property.** Mortgagor will keep and maintain, or cause to be kept and maintained, the Property (including all improvements thereon and the sidewalks, sewers, and curbs) in good order and condition, will make or cause to be made, as and when the same becomes necessary, all structural and nonstructural and all ordinary and extraordinary repairs and all maintenance necessary to that end, will make all repairs and maintenance to the Property in a good and workmanlike manner, and will not permit, commit or suffer any waste, impairment or deterioration of the Property.
- 3.6 Improvements.** Mortgagor will not remove or demolish, or suffer or permit others to remove or demolish, any improvements installed or placed on the Property (other than tenant improvements) or, subject to the provisions of Section 3.5, cause or permit such improvements to be materially changed or altered without the prior written consent of Mortgagee, as well as Mortgagee's prior written consent to the plans and specifications relating thereto. Mortgagor will not institute or cause to be instituted any proceedings that could change the permitted use of the Property from the use or uses permitted as of the date hereof.
- 3.7 Insurance.** Mortgagor will keep all improvements, if any, now on, or that hereafter may be put upon, the Property, including fixtures and all personal property owned by Mortgagor and used in the operation of the Property, insured at all times for the benefit of Mortgagee and Mortgagor, as their respective interests may appear, against loss or damage by fire, flood, and such other risks of damage, hazards, casualties and contingencies and in the manner and form and in the amounts as specified in writing by Mortgagee from time to time, subject to the following additional terms and conditions:
- 3.7.1** Such insurance will be issued by a company or companies and in amounts acceptable to, and in every respect satisfactory to, Mortgagee and will contain a

provision requiring that the coverage evidenced thereby will not be terminated or materially modified without 10 days' prior written notice to Mortgagee. If Mortgagor fails to carry any insurance required to be carried by Mortgagor under the terms of this Mortgage, Mortgagee, at its option, may procure and maintain such insurance and Mortgagor will promptly reimburse Mortgagee for any premiums paid by Mortgagee for such insurance. The originals or appropriate certificates of all policies of insurance required to be carried under this Mortgage, bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to Mortgagee of such payment, will be delivered to Mortgagee concurrently with the execution and delivery hereof. Mortgagor will deliver to Mortgagee a new policy (or certificate, in the case of insurance for which only certificates have been previously furnished) bearing such notation or accompanied by such other evidence as replacement for any expiring policy at least 30 days before the date of such expiration.

3.7.2 All policies of insurance required by this Section will contain a standard mortgagee clause in favor of Mortgagee and a waiver of insurer's right of subrogation against funds paid under the standard mortgagee endorsement. In case of a loss payable under such insurance for damage to or destruction of the Property, the right to adjust all claims under such insurance policies (jointly with Mortgagor), and the application of the proceeds of any such claim, are assigned to Mortgagee. Mortgagor hereby assigns to Mortgagee all amounts recoverable under any such policy. Except as may be otherwise provided in tenant leases approved by Mortgagee, the amount collected by Mortgagee, at the option of Mortgagee, may be used in any one or more of the following ways: (i) applied to the payment of any sums then in default to Mortgagee hereunder; (ii) used to fulfill any of the covenants contained herein which Mortgagor has failed to fulfill, as Mortgagee may determine; (iii) unless the insurer denies liability to any insured, used to restore the Property to a condition satisfactory to Mortgagee; (iv) applied upon the Indebtedness, whether the Indebtedness is then matured or unmatured; or (v) released to Mortgagor. Mortgagee is hereby irrevocably appointed by Mortgagor as attorney-in-fact of Mortgagor to assign any policy in the event of the foreclosure of this Mortgage or other extinguishment of the Indebtedness, and Mortgagor will have no right to reimbursement for premiums unearned at the time of any such assignment.

3.7.3 In the event of either a partial or total loss, all proceeds and rights of action are hereby assigned to Mortgagee. At its option, in its own name, Mortgagee will be entitled to commence, appear in and prosecute any action or proceedings or to make any compromise or settlement in connection with any such loss. The payment to Mortgagee of such insurance proceeds will not cure or waive any Event of Default hereunder. Notwithstanding such total or partial loss, all payments of the Indebtedness will be made without reduction, modification or interruption and all applicable terms and conditions of this Mortgage will be applicable to Mortgagor

without modification or interruption.

- 3.8 Sale, Transfer or Encumbrance.** Mortgagor will not, voluntarily or involuntarily, further mortgage, sell or convey, grant a deed of trust, pledge, grant a security interest in, lease, execute a land contract or installment sales contract, or otherwise dispose of, further encumber or suffer the encumbrance of, whether by operation of law or otherwise, any or all of its interest in the Property without Mortgagee's prior written consent.
- 3.9 Mechanics Liens.** Mortgagor will keep and maintain the Property free from all liens of persons supplying labor and materials for the construction, modification, repair or maintenance of any building or improvements whether on the Property or not. If any such lien is filed against the Property, Mortgagor will discharge the same of record within 30 days after the lien is filed or, if not filed, within 30 days after Mortgagor has notice thereof, provided that, in connection with any such lien or claim that Mortgagor may in good faith desire to contest, Mortgagor may contest the same by appropriate legal proceedings, diligently prosecuted, upon the posting of a bond or other security satisfactory to Mortgagee.
- 3.10 Eminent Domain.** Mortgagor will give Mortgagee immediate written notice of the actual or threatened commencement of any proceedings under eminent domain affecting all or any part of the Property, and will deliver to Mortgagee copies of any and all documents relating to such proceedings. All awards heretofore or hereafter made by any public or quasi-public authority to the present and any subsequent owner of the Property by virtue of an exercise of the right of eminent domain by such authority, including any award for a taking of title, possession or right of access to a public way, or for any change of grade of streets affecting the Property, are hereby assigned to Mortgagee and Mortgagee, at its option, is hereby authorized, directed and empowered to collect and receive the proceeds of any such award from the authorities making the same and to give proper receipts and acquittances therefor. The proceeds may be used, at Mortgagee's election, in any one or more of the following ways: (i) applied to the payment of any sums then in default to Mortgagee hereunder; (ii) used to fulfill any of the covenants contained herein which Mortgagor has failed to fulfill, as Mortgagee may determine; (iii) used to replace or restore the Property to a condition satisfactory to Mortgagee; (iv) applied upon the Indebtedness, whether the Indebtedness is then matured or unmatured; or (v) released to Mortgagor. Mortgagee will have the right to intervene and participate (jointly with Mortgagor) in any proceedings for and in connection with any such taking. Upon request of Mortgagee, Mortgagor will make, execute, and deliver all assignments and other instruments sufficient for the purpose of assigning all such awards to Mortgagee free, clear and discharged of all encumbrances. Mortgagee will not be, in any event or circumstance, liable or responsible for failure to collect or exercise diligence in connection with any proceeds, judgments, decrees, or awards.
- 3.11 Unpaid Impositions.** In the event that any governmental agency claims that any tax or other governmental charge or Imposition is due, unpaid or payable by Mortgagor or

Mortgagee upon the Indebtedness (other than income tax, franchise tax or similar tax on the interest or premium receivable by Mortgagee thereunder) and including any recording tax, documentary stamps or other tax or imposition on the Note or this Mortgage, Mortgagor forthwith will pay such tax and, within a reasonable time thereafter, deliver to Mortgagee satisfactory proof of payment thereof or if Mortgagor is contesting the same in good faith, Mortgagor will establish with Mortgagee security in form, substance and amount reasonably acceptable to Mortgagee for the payment thereof.

3.12 Environmental Matters. Qualified, however, as to Section 3.12.3, below, by those matters, if any, set forth in the environmental site assessment of the Property in form and substance satisfactory to Lender and delivered to Lender in connection with the execution of this document:

3.12.1 Mortgagor and the activities or operations at the Property are in compliance in all material respects with all applicable federal, state and local, statutes, laws, regulations, ordinances, policies and orders relating to regulation of the environment, health or safety, or contamination or cleanup of the environment (collectively "Environmental Laws").

3.12.2 Mortgagor has obtained and will maintain all approvals, permits, licenses, certificates, or satisfactory clearances from all governmental authorities required under Environmental Laws with respect to the Property and any activities or operations at the Property.

3.12.3 To the best of Mortgagor's knowledge, after an investigation meeting the standard set forth at 42 U.S.C. Section 9601 (35)(B)(1986) and any similar standards for environmental investigations under state Environmental Laws ("Due Investigation"), there have not been and are not now any solid waste, hazardous waste, hazardous or toxic substances, pollutants, contaminants, or petroleum in, on, under or about the Property. The use which Mortgagor makes and intends to make of the Property will not result in the deposit or other release of any hazardous or toxic substances, solid waste, pollutants, contaminants or petroleum on, to or from the Property.

3.12.4 To the best of Mortgagor's knowledge, after Due Investigation, there have been no complaints, citations, claims, notices, information requests, orders or directives on environmental grounds or under Environmental Laws (collectively "Environmental Claims") made or delivered to, pending or served on, or anticipated by Mortgagor or its agents, or of which Mortgagor or its agents, are aware or should be aware (i) issued by any governmental department or agency having jurisdiction over the Property or the activities or operations at the Property, or (ii) issued or claimed by any third party relating to the Property or the activities or operations at the Property.

3.12.5 To the best of Mortgagor's knowledge, after Due Investigation, no asbestos-

containing materials are installed, used, or incorporated into the Property, and no asbestos-containing materials have been disposed of on the Property.

- 3.12.6** To the best of Mortgagor's knowledge, after Due Investigation, no polychlorinated biphenyls ("PCBs") are located at, on or in the Property in the form of electrical equipment or devices, including, but not limited to, transformers, capacitors, fluorescent light fixtures with ballasts, cooling oils or any other device or form.
- 3.12.7** To the best of Mortgagor's knowledge, after Due Investigation, there have not been and are not now any underground storage tanks located within or about the Property.
- 3.12.8** The Property does not contain any wetlands as that term is defined by relevant governmental agencies under Environmental Laws and, to the best of Mortgagor's knowledge, after Due Investigation, there has been no filling of wetlands on the Property in violation of Environmental Laws.
- 3.12.9** In the event that any hazardous or toxic substances, pollutants, contaminants, solid waste or hazardous waste, or petroleum are released (as that term is defined under Environmental Laws) at the Property, or are otherwise found to be in, on, under or about the Property in violation of Environmental Laws or in excess of cleanup levels established under Environmental Laws, Mortgagor immediately will notify Mortgagee in writing and will commence such action as may be required with respect to such items, including, but not limited to, removal and cleanup thereof, and deposit with Mortgagee cash collateral, letter of credit, bond or other assurance of performance in form, substance and amount reasonably acceptable to Mortgagee to cover the cost of such action. Upon request, Mortgagor will provide Mortgagee with updates on the status of Mortgagor's actions to resolve or otherwise address such items.
- 3.12.10** In the event Mortgagor receives notice of an Environmental Claim from any governmental agency or other third party alleging a violation of or liability under Environmental Laws with respect to the Property or Mortgagor's activities or operations at the Property, Mortgagor immediately will notify Mortgagee in writing and will commence such action as may be required with respect to such Environmental Claim. Upon request, Mortgagor will provide Mortgagee with updates on the status of Mortgagor's actions to resolve or otherwise address such Environmental Claim.
- 3.12.11** Mortgagee will not be deemed to assume any liability or obligation for loss, damage, fines, penalties, claims or duties to clean-up or dispose of wastes or materials on or relating to the Property merely by conducting any inspections of the Property or by obtaining title to the Property by foreclosure, deed in lieu of foreclosure or otherwise. Mortgagor, including its successors and assigns, agrees to remain fully

liable and will indemnify, defend and hold harmless Mortgagee, its directors, officers, employees, agents, contractors, subcontractors, licensees, invitees, successors and assigns, from and against any claims, demands, judgments, damages, actions, causes of action, injuries, administrative orders, liabilities, costs, expenses, clean-up costs, waste disposal costs, litigation costs, fines, penalties, damages and other related liabilities arising from (i) the failure of Mortgagor to perform any obligation herein required to be performed by Mortgagor, (ii) the removal or other remediation of hazardous or toxic substances, hazardous wastes, pollutants or contaminants, solid waste or petroleum at or from the Property, (iii) any act or omission, event or circumstance existing or occurring resulting from or in connection with the ownership, construction, occupancy, operation, use and/or maintenance of the Property, (iv) any and all claims or proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment and any other injury or damage resulting from or relating to any hazardous or toxic substances, hazardous waste, pollutants, contaminants, solid waste, or petroleum located upon or migrating into, from or through the Property (whether or not any or all of the foregoing was caused by the Mortgagor or its tenant or subtenant, or a prior owner of the Property or its tenant or subtenant, or any third party and whether or not the alleged liability is attributable to the handling, storage, generation, transportation or disposal of such material or the mere presence of such material on the Property), and (v) Mortgagor's breach of any representation or warranty contained in this Section. Without limitation, the foregoing indemnities will apply to Mortgagee with respect to claims, demands, losses, damages (including consequential damages), liabilities, causes of action, judgments, penalties, costs and expenses (including reasonable attorneys' fees and court costs) which in whole or in part are caused by or arise out of the negligence of Mortgagee. Such indemnity, however, will not apply to Mortgagee to the extent the subject of the indemnification is caused by or arises out of the gross negligence or willful misconduct of Mortgagee. All environmental representations, warranties, covenants, and indemnities will continue indefinitely and may not be cancelled or terminated except by a writing signed by Mortgagee specifically referring to this Section.

3.12.12

Notwithstanding anything contained to the contrary in the Note, or other documents evidencing or securing the Indebtedness, the provisions of this Section will survive the termination or expiration of the Indebtedness, the full repayment of the Indebtedness, or the acquiring of title by Mortgagee or its successors and assigns by foreclosure, deed in lieu of foreclosure or otherwise, and will be fully enforceable against Mortgagor and its successors and assigns. The provisions of this Section will constitute a separate undertaking by Mortgagor and will be an inducement to Mortgagee in extending the Loan evidencing the Indebtedness to Mortgagor. The provisions of this Section will not be subject to any anti-deficiency or similar laws.

3.13 Suits and Judgments. There are no judicial or administrative actions, suits or proceedings (including without limitation any judgments, garnishments or attachments) pending or to the best of Mortgagor's knowledge, threatened against, affecting or involving Mortgagor, any other person liable, directly or indirectly, for the Indebtedness; or the Property, or any other property owned by Mortgagor or any other person liable, directly or indirectly, for the Indebtedness.

4. ASSIGNMENT OF RENTS AND LEASES

4.1 Assignment. Mortgagor hereby transfers and assigns to Mortgagee as further security for the payment of the Indebtedness all of the following (collectively, the "Leases"): (i) all present and future leases granted by Mortgagor covering all or any portion of the Property, (ii) all agreements for use or occupancy of any portion of the Property, (iii) all present and future ground leases for use or occupancy of any portion of the Property, (iv) any and all guarantees of the performance of any lessee under any lease of all or any part of the Property, (v) any extensions, amendments, modifications, supplements or replacements to any lease of all or any part of the Property (or to any guarantee or other item assigned pursuant to this Section) and (vi) any and all further leases and subleases, lettings or agreements (including rights and respective tenants holding over and tenancies following attornment) of all or any part of the Property. The rights assigned hereunder include but are not limited to all of Mortgagor's rights (a) to materially modify the Leases; (b) to terminate or to accept the surrender thereof; (c) to waive or release the lessees from the observance or performance by the lessees of any material covenant or condition of the Leases; and (d) to give any consent to any assignment of the Leases or any sublease of any part of the Property.

4.2 Duties of Mortgagor. Mortgagor will observe and perform all covenants and conditions to be observed or performed by the lessor under the Leases and enforce the observance and performance of the Leases by the lessees. Mortgagor will not cancel, surrender, terminate, or materially alter, amend or modify any Leases, release any party liable thereunder or consent to the assignment of the interests of any lessees without the prior written consent of Mortgagee which consent will not be unreasonably withheld. Mortgagee will be deemed to have consented to any such items if Mortgagee fails to object thereto within five days of receipt of a written request for Mortgagee's consent. Mortgagor will not permit the prepayment of any rents under the Leases for more than 30 days in advance of their due date without the prior written consent of Mortgagee. The form of lease to be used for tenants in the Property will be submitted to Mortgagee.

4.3 Rights of Mortgagee. If Mortgagor fails to observe or perform any covenant or condition to be observed or performed by Mortgagor under any of the Leases, Mortgagee, without obligation to do so and without notice to or demand on Mortgagor or releasing Mortgagor from its obligation to do so, may perform such covenant or condition and, to the extent that Mortgagee incurs any costs or pays any monies in connection therewith, including any costs

or expenses of litigation, the costs and expenses will be due from Mortgagor on demand and will be included in the indebtedness secured hereby and will bear interest from the incurring or payment thereof at the Default Rate (as defined in the Note).

4.4 Indemnification. Mortgagee will not be obligated to perform or discharge any obligation or duty of Mortgagor under any of the Leases, and the acceptance of this Assignment does not constitute an assumption of any such obligation or duty. Mortgagee will not be deemed to have any responsibility for the control, care, management or repair of the Property or any responsibility or liability for any negligence in the management, operation, upkeep, repair or control of the Property resulting in loss, injury or death to any lessee, licensee, employee, stranger or other person. Mortgagor will indemnify and hold Mortgagee harmless against all liabilities, losses and damages that Mortgagee may incur under the Leases or under or by reason of this assignment except for Mortgagee's grossly negligent acts or liabilities or losses and damages arising out of Mortgagee's possession or control of the Property. This indemnification will survive the repayment of the Note and release or satisfaction of this Mortgage or the foreclosure hereof.

4.5 Rent. As long as no Event of Default exists, Mortgagor will have the right to collect all rents under any Lease, but not more than 30 days in advance of their due date. Upon the occurrence of an Event of Default, Mortgagee may take such actions with respect to the Leases and the rents, issues and profits (including the notification to lessees to make rent payments directly to Mortgagee) from the Property, as permitted by law or in equity, including but not limited to the remedies set forth in Section 6, below.

4.6 Contracts. Mortgagor will not enter into any contract for the management of the Property or appoint a rental agent for the Property without Mortgagee's prior review and written consent. Payment of any management fees or agent fees due under any such approved contract will be subordinated to the payment of the annual debt service under the Indebtedness.

5. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT

5.1 Security Agreement. This Mortgage is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the Property for which a security interest may be granted pursuant to the applicable version of the Uniform Commercial Code, including fixtures (hereinafter, the "UCC Collateral") and Mortgagor hereby grants Mortgagee a security interest in the UCC Collateral.

5.2 Filings. Mortgagor agrees that this Mortgage, or a reproduction thereof, may be filed in the real estate records or other appropriate index as a financing statement for any of the UCC Collateral. Any reproduction of this Mortgage or of any other security agreement or financing statement will be sufficient as a financing statement. Mortgagor hereby authorizes Mortgagee to file any financing statements, as well as extensions, renewals and

amendments thereof, and reproductions of this Mortgage in such form as Mortgagee may require to perfect a security interest with respect to said items. Mortgagor will pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and will pay all reasonable costs and expenses of any record searches for financing statements Mortgagee may require.

- 5.3 Other Liens.** Without the prior written consent of Mortgagee, Mortgagor will not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in the UCC Collateral, including replacements and additions thereto, except for purchase money security interests in or leases of equipment. Mortgagor will keep its books, records, and documents concerning the Property at the Property or at the address set forth in Section 7.5, below. Mortgagee and its agents may examine and make extracts and copies from the books, records, and documents of Mortgagor which relate to the Property.
- 5.4 Contracts.** Mortgagor will observe and perform all covenants and conditions to be performed by Mortgagor under any contracts which are included within the Property, will enforce such contracts, will not materially modify such contracts, terminate such contracts or release parties thereto without the prior written consent of Mortgagee and will not assign or encumber its interest therein. The assignment and grant of a security interest in the Property does not constitute an assumption by Mortgagee of any obligation or duty thereunder.
- 5.5 Remedies.** Upon any Event of Default (as defined below) under this Mortgage, Mortgagee will have the remedies of a secured party under the Uniform Commercial Code and, at Mortgagee's option, may also invoke the remedies provided in this Mortgage, the Note and under applicable law. In exercising any of said remedies, Mortgagee may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Mortgagee's remedies under the Uniform Commercial Code or of the remedies in this instrument. Taking possession of any of the Property and the performance of the obligations of Mortgagor thereunder will not operate to cure or waive any default or prohibit the taking of any other action by Mortgagee under any instrument or at law or in equity to enforce the payment of the Indebtedness or to realize upon any other security or guarantee therefor. Mortgagee may, so far as Mortgagor can give authority therefor, enter upon any premises on which the Property or the books and records relating to the Property are located and take possession of and remove the same therefrom. Mortgagor waives all claims for damages by reason of any seizure, repossession, retention, or sale of the Property under the terms hereof. Any requirement of reasonable notice, if necessary, will be met if such notice is mailed, postage prepaid, to the address of Mortgagor shown in Section 7.5, below, at least 10 days before the time of the sale or other disposition of the Property. The net proceeds arising from the disposition of the Property, after deducting Mortgagee's expenses, will be applied to the Indebtedness in the order determined by Mortgagee. If any excess remains after the discharge of all of the Indebtedness and the payment of all such

expenses, it will be paid to Mortgagor.

6. DEFAULT; REMEDIES

- 6.1 Events of Default; Rights after Mortgagor's Default.** Upon the occurrence of any of the following (herein referred to as an "Event of Default"): (i) any Event of Default (as defined in any of the documents evidencing the Indebtedness), (ii) any default under any of such documents that do not have a defined set of "Events of Default", (iii) any representation or warranty made by Mortgagor to Mortgagee in this Mortgage is false or erroneous in any material respect, or (iv) the failure of Mortgagor to observe or perform any covenant or other agreement with Mortgagee under this Mortgage, Mortgagee may exercise any one or more of the rights and remedies granted pursuant to this Mortgage or given to a secured party under applicable law, as it may be amended from time to time. Mortgagor releases any and all claims against Mortgagee arising out of such management, operation and maintenance of the Property, whether such claims are made directly by Mortgagor, by anyone claiming under or through Mortgagor or by any other person or entity claiming an interest in the Property. Mortgagor will indemnify and hold harmless Mortgagee, its officers, directors, employees, attorneys and agents, from and against any and all liability, loss, damage or expense (including attorneys' fees, costs and expenses) which it may or might incur under or by reason of this Mortgage or actions taken pursuant thereto, or by reason or in defense of any and all claims and demands whatsoever which may be asserted against Mortgagee directly or indirectly related to the Property or arising out of the Leases. Should Mortgagee incur any such liability, loss, damage or expense, the amount thereof (including attorneys' fees) with interest thereon at the rate set forth in the Note, will be payable by Mortgagor immediately without demand, and will be secured hereby and by the Mortgage. Mortgagor will pay the reasonable attorneys' fees and expenses incurred by Mortgagee hereunder or in connection herewith, whether or not an Event of Default has occurred or been declared, to the extent such attorneys' fees and expenses are actually paid or agreed to be paid by Mortgagee. Mortgagee is authorized by Mortgagor to deduct such attorneys' fees and expenses from the Rents, as such term is defined below, collected hereunder by Mortgagee.
- 6.2 Waivers.** The failure of Mortgagee to exercise either or both of its options to accelerate the maturity of the Indebtedness secured hereby and to foreclose the lien hereof following any Event of Default, or to exercise any other option granted to Mortgagee of partial payments of such Indebtedness, will neither constitute a waiver of any such default or of Mortgagee's options hereunder nor establish, extend or affect any grace period for payments due under the Note, but such options will remain continuously in force. Acceleration of maturity, once claimed hereunder by Mortgagee, may, at Mortgagee's option, be rescinded by written acknowledgement to that effect by Mortgagee and will not affect Mortgagee's right to accelerate maturity upon or after any future default.
- 6.3 Expenses.** In any proceeding (i) to foreclose the lien of this Mortgage or enforce any other

remedy of Mortgagee under the Note, this Mortgage, or any other document securing the Indebtedness; (ii) in which Mortgagee is named as a party in connection with any of the Property; or (iii) affecting the Note, this Mortgage or any of the Property; or (iv) in preparation for the commencement or defense of any proceeding or threatened suit or proceeding in connection therewith, there will be allowed and included, as additional indebtedness in the judgment or decree resulting therefrom, any and all of the following expenses paid or incurred in connection with such proceeding by or on behalf of Mortgagee: reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of such judgment or decree) of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates and any similar data and assurances with respect to title to the Property as Mortgagee may deem reasonably necessary either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or value of the premises or the Property. All expenses of the foregoing nature will be immediately due and payable by Mortgagor with interest thereon at the Default Rate.

- 6.4 Proceeds.** The proceeds of any foreclosure sale of the Property, or any part thereof, will be distributed and applied in the following order of priority: (a) on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Section 6.4 hereof; (b) all other items that, under the terms of this Mortgage, constitute secured indebtedness additional to that evidenced by the Note, with interest thereon at the highest rate permitted by law; (c) all principal and interest remaining unpaid under the Note, in the order of priority specified by Mortgagee in its sole discretion; and (d) the balance to Mortgagor or its successors or assigns, as its interests may appear.
- 6.5 Additional Remedies.** If an Event of Default has occurred and is continuing, Mortgagee, at its option, in addition to the other remedies provided herein or in law or equity, may without regard to the adequacy of security for the Indebtedness hereby secured and with or without bringing any legal action or causing any receiver to be appointed by any court (i) enter upon, take possession of, and manage and operate the Property; (ii) perform any or all obligations of Mortgagor under the Leases, and exercise the rights of Mortgagor contained therein as fully as Mortgagor itself could; (iii) let or re-let the Property or any part thereof; (iv) enforce, modify, cancel or accept the surrender of any of the Leases; (v) bring or defend any suits in connection with the possession of the Property or any part thereof, in the name of either Mortgagor or Mortgagee; (vi) make such repairs as Mortgagee may deem appropriate; (vii) pay out of rents, income or profits any liens, taxes, assessments, insurance premiums, utility charges or costs of keeping the Property in good condition and repair; (viii) in the name of either Mortgagor or Mortgagee sue for or otherwise collect and receive all rents, issues and profits, including those past due and unpaid; and (ix) do all other things Mortgagee may deem necessary or proper to protect its security. Entry upon and taking possession of the Property and the collection of the rents and the application thereof will not operate to cure or waive any default under any instrument given by Mortgagor to Mortgagee

or prohibit the taking of any other action by Mortgagee under any such other instrument, or at law or in equity to enforce the payment of the Indebtedness or to realize on any other security or guarantee.

- 6.6 Application of Indebtedness towards Purchase Price.** Upon any foreclosure sale, pursuant to judicial proceedings, Mortgagee may bid for and purchase the Property, and upon compliance with the terms of the sale, may hold, retain, possess and dispose of such property as its own absolute right without further accountability. Any such purchase will permit Mortgagee to apply to the purchase price any portion of or all sums due to Mortgagee under the Indebtedness and this Mortgage in lieu of cash, to the amount which will, upon distribution of the net proceeds of such sale, be payable thereon.
- 6.7 Receivers.** Upon or at any time after the occurrence of an Event of Default, Mortgagee may request the appointment of a receiver of the Property. In the event Mortgagee elects to seek the appointment of a receiver for the Property upon the occurrence of an Event of Default hereunder, Mortgagor expressly consents to the appointment of such receiver, who will be entitled to a reasonable fee for so managing the Property. Such appointment may be made either before or after any foreclosure action or sale, without notice, and without regard to (i) the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the Indebtedness; (ii) the value of the Property at such time; and (iii) whether the same is then occupied as a homestead, and without bond being required of the applicant. Such receiver will have the power to take possession, control and care of the Property and to collect all rents, issues, deposits and profits thereof. Notwithstanding the appointment of any receiver, trustee, or other custodian, Mortgagee will be entitled to the possession and control of any cash, or other instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Mortgagee.
- 6.8 Rights of Mortgagee.** If Mortgagor fails to pay any of the Impositions or to make any other payment required to be paid by Mortgagor under this Mortgage at the time and in the manner provided in this Mortgage, or if an Event of Default occurs, then without limiting the generality of any other provision of this Mortgage and without waiving or releasing Mortgagor from any of its obligations hereunder, Mortgagee will have the right, but will be under no obligation, to pay any of the Impositions or other payment, or any sums due under this Mortgage, and may perform any other act or take such action as may be appropriate to cause such other term, covenant, condition or obligation to be promptly performed or observed on behalf of Mortgagor, provided that, unless in Mortgagee's judgment the sending of a 10-day notice will impair the security of the lien of the Mortgage, Mortgagee will give Mortgagor 10 days' prior written notice prior to making any such payment. Mortgagee and any person designated by Mortgagee is hereby granted the right to enter upon the Property at any time and from time to time for the purpose of performing any such act or taking any such action, and all monies expended by Mortgagee in connection with making such payment or performing such act (including, but not limited to, legal expenses and disbursements), together with interest thereon at the Default Rate from the date of each

such expenditure, will be paid by Mortgagor to Mortgagee forthwith upon demand by Mortgagee and will be secured by this Mortgage.

7. MISCELLANEOUS

7.1 Rights Cumulative. The rights of Mortgagee arising under this Mortgage and the Note and other documents securing the Indebtedness or any part thereof will be separate, distinct and cumulative and none of them will be exclusive of the others. No act of Mortgagee and nothing contained herein will be construed as an election to proceed under any one provision herein or in such other documents to the exclusion of any other provision.

7.2 Waivers. A waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof, or of the Note or any documents securing the Indebtedness or any part thereof, will apply to the particular instance or instances and at the particular time or times only, and no such waiver will be deemed a continuing waiver, but all of the terms, covenants, conditions and other provisions of this Mortgage and of such other documents will survive and continue to remain in full force and effect. No waiver will be asserted against Mortgagee unless in writing signed by Mortgagee.

7.3 Titles. The titles to the Sections hereof are for reference only and do not limit in any way the content thereof.

7.4 Amendments. No change, amendment, modification, cancellation or discharge hereof, or any part hereof, will be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

7.5 Notices. All notices, demands, requests, consents or approvals and other communications required or permitted hereunder will be in writing, and, to the extent required by applicable law, will comply with the requirements of the Uniform Commercial Code then in effect, and will be addressed to such party at the address set forth below or to such other address as any party may give to the other in writing for such purpose:

To Mortgagee: Farmers Bank, Nicholasville, Kentucky
200 North Main Street
Nicholasville, Kentucky 40356
Attn: Jim Bailey, President

To Mortgagor: Jessamine-South Elkhorn Water District
P.O. Box 731
Nicholasville, Kentucky 40356
Attn: Chairman

All such communications, if personally delivered, will be conclusively deemed to have been

received by a party hereto and to be effective when so delivered, or if sent by telex, facsimile or telegraphic means, on the day on which transmitted, or if sent by overnight courier service, on the day after deposit thereof with such service, or if sent by certified or registered mail, on the third business day after the day on which deposited in the mail.

- 7.6 **Construction.** Any words herein that are used in one gender will be read and construed to mean or include the other genders wherever they would so apply. Any words herein which are used in the singular will be read and construed to mean and to include the plural wherever they would so apply, and vice versa.
- 7.7 **Waivers by Mortgagor.** Mortgagor hereby expressly waives, to the extent permitted by law, the equity of redemption, any statutory right of redemption, dower and homestead and all other rights and exemptions of every kind in and to the Property.
- 7.8 **Releases.** Mortgagor agrees that Mortgagee, without notice to or further consent of Mortgagor, may release or discharge any persons who are or may become liable for the payment of the Indebtedness or release or discharge any other collateral for the payment of the Indebtedness and any such release or discharge will not alter, modify, release or limit the validity and enforceability of this Mortgage or the liability of Mortgagor under the Indebtedness or this Mortgage.
- 7.9 **Appraisal.** From time to time, but in any event no more often than once each calendar year, Mortgagee may require a reappraisal of the market value of the Property, which appraisal will be paid for by Mortgagor. Such appraisal will be in form and content satisfactory to Mortgagee and be performed by an independent, certified appraiser selected by Mortgagee.
- 7.10 **Joint and Several.** If this Mortgage is executed by more than one person or entity as the "Mortgagor," the obligations of such persons or entities hereunder will be joint and several. Unless otherwise specified herein, any reference to "Mortgagor" will mean each such person or entity executing this Mortgage individually and all of such persons or entities collectively. This Mortgage will bind Mortgagor and the heirs, administrators, successors and assigns of Mortgagor, and the benefits hereof will inure to the benefit of Mortgagee and its successors and assigns. All references herein to the "Mortgagor" and "Mortgagee" will be deemed to apply to Mortgagor and Mortgagee and their respective heirs, administrators, successors and assigns; provided, however, that Mortgagor may not assign this Mortgage in whole or in part without the prior written consent of Mortgagee, and Mortgagee at any time may assign this Mortgage in whole or in part.
- 7.11 **Governing Law.** This Mortgage has been delivered and accepted at and will be deemed to have been made at Lexington, Kentucky and will be interpreted and the rights and liabilities of the parties hereto determined in accordance with the laws of the Commonwealth of

Kentucky, without regard to conflicts of law principles.

- 7.12 *Jurisdiction. Mortgagor hereby irrevocably agrees and submits to the exclusive jurisdiction of any state or federal court located within Jessamine County, Kentucky, or, at the option of Mortgagee in its sole discretion, of any state or federal court(s) located within any other county, state or jurisdiction in which Mortgagee at any time or from time to time chooses in its sole discretion to bring an action or otherwise exercise a right or remedy, and Mortgagor waives any objection based on forum non conveniens and any objection to venue of any such action or proceeding.*
- 7.13 *Waiver of Jury Trial. The parties hereto each waive any right to trial by jury in any action or proceeding relating to this Mortgage, or any actual or proposed transaction or other matter contemplated in or relating to any of the foregoing.*

Executed on this the 28th day of March, 2008 by Jessamine-South Elkhorn Water District, a Kentucky rural water district, and Mortgagor hereby incorporates the attached Exhibit A by reference as if fully set forth herein.

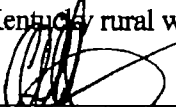
JESSAMINE-SOUTH ELKHORN WATER DISTRICT



L. NICHOLAS STRONG, CHAIRMAN

COMMONWEALTH OF KENTUCKY
COUNTY OF JESSAMINE

The foregoing Mortgage was acknowledged before me on the 28th day of March, 2008, by L. Nicholas Strong, Chairman, for and on behalf of Jessamine-South Elkhorn Water District, a Kentucky rural water district, Mortgagor.



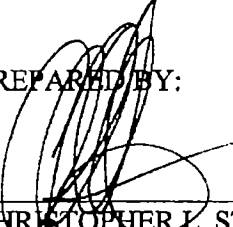
CHRISTOPHER L. STANSBURY
NOTARY PUBLIC
Commonwealth of Kentucky
State-at-Large
My Commission Expires: 6/30/11

Exhibit "A"

All that certain lot or parcel of land lying and being located in Jessamine County, Kentucky, and being known and designated as Lots No. 19, 111 and 112, of Section 3, Edgewood East Estates, to the City of Nicholasville, Kentucky, as shown by Amended Plat of record in Plat Cabinet 7, Page 102B (formerly known as Plat Book No. 5, Page 59), in the Office of the Clerk of the Jessamine County Clerk, and to which reference is hereby made for a more particular description of said lot.

Being the same property conveyed to the Jessamine-South Elkhorn Water District, a Kentucky rural water district by deed of The Farmers Bank, Nicholasville, Kentucky, a Kentucky banking corporation, dated March 28, 2008, and recorded herewith Deed Book ~~420~~ Page 421, in the aforesaid clerk's office.

PREPARED BY:



CHRISTOPHER L. STANSBURY
MOYNAHAN, IRVIN, MOONEY & STANSBURY, P.S.C.
110 NORTH MAIN STREET
NICHOLASVILLE, KENTUCKY 40356
(859) 887-1200
5542-457

DOCUMENT NO: 219414
RECORDED ON: APRIL 03, 2008 11:47:19AM
TOTAL FEES: \$65.00
COUNTY CLERK: EVA L. MCDANIEL, C.J.C.
COUNTY: JESSAMINE COUNTY
DEPUTY CLERK: MONICA L. CARPENTER
BOOK M932 PAGES 17 - 35

BRUCE E. SMITH LAW OFFICES, PLLC

201 SOUTH MAIN STREET

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(859) 885-3393 + (859) 885-1152 FAX

BRUCE E. SMITH
bruce@smithlawoffice.net

HENRY E. SMITH
henry@smithlawoffice.net

November 23, 2015

Commissioner Tony Wilder
Kentucky Department for Local Government
1024 Capital Center Drive – Suite 340
Frankfort, Kentucky 40601

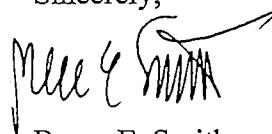
Re: State Local Debt Officer Notification
Jessamine-South Elkhorn Water District (JSEWD)
Application for Approval of Financing – KRS 278.300

Dear Mr. Wilder:

On behalf of JSEWD, this letter is notification to you as the “state local debt officer” under 807 KAR 5:001, Section 18 (1) (g) that my client is seeking approval from the Kentucky Public Service Commission (“PSC”), pursuant to KRS 278.300, for approval of a financing arrangement and debt obligation to the Kentucky Rural Water Finance Corporation. The loan amount of \$470,000.00 will be used to construct a waterworks project previously approved by the PSC.

If you need further information about this project loan, please contact me.

Sincerely,



Bruce E. Smith

g:\...JSEWD\Forest Hills\App to approve financing\wilder ltr 112315

