

# Rubin & Hays

ATTORNEYS AT LAW

Kentucky Home Trust Building, 450 South Third Street, Louisville, Kentucky 40202-1410  
Telephone (502) 569-7525 Telefax (502) 569-7555 www.rubinhays.com

CHARLES S. MUSSON  
W. RANDALL JONES  
CHRISTIAN L. JUCKETT

RECEIVED

September 29, 2017

OCT 03 2017

PUBLIC SERVICE  
COMMISSION

Mr. John S. Lyons  
Acting Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

Re: Powell's Valley Water District PSC Application - KRS 278.023

Dear Mr. Lyons:

Enclosed please find 2 copies of the Preliminary and Final Engineering Reports and the Plans and Specifications on electronic media in portable document format.

If you need any additional information or documentation, please let us know.

Sincerely,

Rubin & Hays

By   
W. Randall Jones

WRJ:jl  
Enclosures  
cc: Distribution List

# Rubin & Hays

ATTORNEYS AT LAW

Kentucky Home Trust Building, 450 South Third Street, Louisville, Kentucky 40202-1410  
Telephone (502) 569-7525 Telefax (502) 569-7555 www.rubinhays.com

CHARLES S. MUSSON  
W. RANDALL JONES  
CHRISTIAN L. JUCKETT

**RECEIVED**

**OCT 03 2017**

**PUBLIC SERVICE  
COMMISSION**

September 26, 2017

Mr. John S. Lyons  
Acting Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

Re: Powell's Valley Water District PSC Application - KRS 278.023

Dear Mr. Lyons:

Enclosed please find the original and ten (10) copies of the Application of the Powell's Valley Water District for a Certificate of Public Convenience and Necessity to construct, finance and increase rates pursuant to KRS 278.023.

Also enclosed are eleven (11) copies of the exhibits required pursuant to 807 KAR 5.069, with the **exception of the Preliminary and Final Engineering Reports, of which two copies are enclosed and the Plans and Specifications on electronic media in portable document format.**

If you need any additional information or documentation, please let us know.

Sincerely,

Rubin & Hays



By  
W. Randall Jones

WRJ:ilm  
Enclosures  
cc: Distribution List

**DISTRIBUTION LIST**

**Re: Powell's Valley Water District Water and Sewer Revenue Bonds, Series 2017,  
in the principal amount of \$520,000**

Mr. Jeff Jones  
Acting State Director  
USDA, Rural Development  
771 Corporate Drive, Suite 200  
Lexington, Kentucky 40503-5477

Telephone: (859) 224-7336  
Fax: (859) 224-7340

Mr. Greg Pridemore  
USDA, Rural Development  
65 Brighton Boulevard, Suite 3  
Shelbyville, Kentucky 40065

Telephone: (502) 633-3294  
Fax: (502) 633-0552

Mr. Kendall Knox, Superintendent  
Powell's Valley Water District  
P.O. Box 550  
Clay City, Kentucky 40312

Telephone: (606) 663-5870

Scott Taylor, P.E.  
MSE of Kentucky, Inc.  
624 Wellington Way  
Lexington, Kentucky 40503

Telephone: (859) 223-5694  
Fax: (859) 223-2607

Robert King, Esq.  
Powell County Attorney  
P.O. Box 8  
Stanton, Kentucky 40380

Telephone: (606) 663-6647

W. Randall Jones, Esq.  
Rubin & Hays  
Kentucky Home Trust Building  
450 South Third Street  
Louisville, Kentucky 40202

Telephone: (502) 569-7534  
Fax: (502) 569-7555

**RECEIVED**

**OCT 03 2017**

**PUBLIC SERVICE  
COMMISSION**

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**THE APPLICATION OF THE POWELL'S VALLEY )  
WATER DISTRICT FOR A CERTIFICATE )  
OF PUBLIC CONVENIENCE AND ) Case No. 2017- 00392  
NECESSITY TO CONSTRUCT, FINANCE AND )  
INCREASE RATES PURSUANT TO KRS 278.023 )**

**A P P L I C A T I O N**

This Application of the Powell's Valley Water District ("Applicant"), respectfully shows:

1. That Applicant is a water and sewer district created and existing under and by virtue of Chapter 74 of the Kentucky Revised Statutes.

2. That the post office address of Applicant is:

Powell's Valley Water District  
c/o Mr. Kendell Knox, Manager  
31 Adams Ridge Road  
Clay City, Kentucky 40312  
Phone: (606) 663-5870  
Fax: (606) 663-5870  
email address: [kendell.knox@pvwd.org](mailto:kendell.knox@pvwd.org)

3. That Applicant, pursuant to the provisions of KRS 278.023, seeks (i) a Certificate of Public Convenience and Necessity ("CPCN"), permitting Applicant to construct a system improvement project (the "Project"); (ii) an Order approving increased water and sewer rates; and (iii) approval of the proposed plan of financing said Project.

4. That the Project consists of the installation of (i) approximately 2,000 linear feet of 3 inch water main and associated appurtenances; (ii) upgrades and replacements of 3 pump stations; (iii) repainting of an existing water storage tank; and (iv) installation of tank circulation facilities for 3 tanks.

5. That Applicant proposes to finance the construction of the Project through the issuance of \$520,000 of its Water and Sewer Revenue Bonds and a grant from the United States Department of Agriculture, acting through Rural Development ("RD") in the amount of \$344,200.

Applicant has a commitment from RD to purchase said \$520,000 of bonds maturing over a 40-year period, at an interest rate not to exceed 2.75% per annum as set out in the RD Letter of Conditions, as amended, and Form RD 1940-1 Request for Obligation of Funds filed herewith as Exhibit A.

6. That Applicant does not contemplate having the Project constructed with any deviation from minimum construction standards of this Commission.

7. That Applicant files herewith the following Exhibits pursuant to 807 KAR 5:069, Section 2 in support of this Application:

- A. Copy of RD Letter of Conditions, as amended, and Form RD 1940-1 (**Exhibit "A"**).
- B. Copy of RD Letter of Concurrence in Contract Award (**Exhibit "B"**).
- C. Copy of Preliminary Engineering Report, Final Engineering Report and certified bid tabulations.
- D. Certified statement from the Chairman of Applicant (**Exhibit "C"**), based upon statements of the Engineers for Applicant, concerning the following:
  - (1) The proposed plans and specifications for the Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066 Section 4(3) and (4); Section 5(1); Sections 6 and 7; Section 8(1) through (3); Section 9(1) and Section 10.
  - (2) All other state approvals or permits have been obtained;
  - (3) The proposed rates of Applicant shall produce the total revenue requirements recommended in the engineering reports; and
  - (4) Setting out the dates when it is anticipated that construction will begin and end.
- E. Copy of the Plans and Specifications of the Project on electronic storage medium in portable document format.

8. That Applicant has complied with the "public postings" requirement of 807 KAR 5:069, Section 3(1)(a) and (b) by posting a copy of the Notice of Proposed Rate Change (the "Notice") (i) at its place of business; and (ii) within five (5) business days of the date this Application is submitted to the Commission, on its website ([www.pvwd.org](http://www.pvwd.org)) along with a hyperlink to the location on the Commission's website where the case documents are available. Applicant has also arranged for the publication, prior to or at the same time this Application is filed, of the Notice pursuant to 807 KAR 5:069, Section 3(2) in the newspapers of general circulation in Applicant's service area. Said Notice sets out the content requirements of 807 KAR 5:069, Section 3(4). A copy

of said Notice is filed herewith as **Exhibit "D"**. Applicant shall file with this Commission no later than fifteen (15) days from the date this Application was initially filed, an affidavit and tearsheet from the publisher as required by 807 KAR 5:069 Section 3(3)(b).

9. That the foregoing constitutes the documents necessary to obtain the approval of this Commission in accordance with Section 278.023 of the Kentucky Revised Statutes and in accordance with the "Filing Requirements" specified in 807 KAR 5:069, Section 2.

WHEREFORE, Applicant, the Powell's Valley Water District asks that the Public Service Commission of the Commonwealth of Kentucky grant to Applicant the following:

- a. A Certificate of Public Convenience and Necessity permitting Applicant to construct a system improvement project.
- b. An Order approving the financing arrangements made by Applicant, viz., the issuance of \$520,000 of Powell's Valley Water District Water and Sewer Revenue Bonds at an interest rate not to exceed 2.75% per annum and a grant from RD in the amount of \$344,200.
- c. An Order approving the proposed water and sewer rates as set out in Section 27 of the RD Letter of Conditions, as amended, filed herewith as an Exhibit.

Powell's Valley Water District

By: \_\_\_\_\_



Chairman

Board of Water Commissioners

\_\_\_\_\_  
W. Randall Jones, Esq.

Rubin & Hays, Counsel for Applicant

Kentucky Home Trust Building

450 South Third Street

Louisville, Kentucky 40202

Phone: (502) 569-7534

Fax: (502) 569-7555

[wrjones@rubinhays.com](mailto:wrjones@rubinhays.com)





United States Department of Agriculture  
Rural Development  
Kentucky State Office

August 30, 2012

Steve Everman, Chairman  
Powell's Valley Water District  
PO Box 550  
Clay City, Kentucky 40312

Dear Mr. Everman:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area office staff of USDA Rural Development. Any changes in project cost, source of funds, scope of services or any other significant changes in the project or applicant must be reported to and approved by USDA Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application. It should also be understood that Rural Development is under no obligation to provide additional funds to meet an overrun in construction costs.

This letter is not to be considered as loan and grant approval or as a representation as to the availability of funds. The docket may be completed on the basis of a RUS loan not to exceed \$520,000 and a RUS grant not to exceed \$344,200. No applicant cash contribution will be required.

If Rural Development makes the loan, the interest rate will be the lower of the rate in effect at the time of loan approval or the rate in effect at the time of loan closing, unless the applicant otherwise chooses. The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you.

Please complete and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire that further consideration be given to your application.

The "Letter of Intent to Meet Conditions" must be executed within three weeks from the date of this letter or it becomes invalid unless a time extension is granted by Rural Development.

If the conditions set forth in this letter are not met within 210 days from the date hereof, Rural Development reserves the right to discontinue the processing of the application.

In signing Form RD 1942-46, "Letter of Intent to Meet Conditions," you are agreeing to complete the following as expeditiously as possible:

771 Corporate Drive • Suite 200 • Lexington, KY 40503  
Phone: (859) 224-7336 • Fax: (859) 224-7444 • TDD: (859) 224-7422 • Web: <http://www.rurdev.usda.gov/ky>

Committed to the future of rural communities.

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

1. Number of Users and Their Contribution:

There shall be 97 sewer users and 2,365 water users, of which all **are** existing users. The Area Director will review and authenticate the number of users prior to advertising for construction bids.

2. Grant Agreement:

Attached is a copy of RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," for your review. You will be required to execute a completed form **at the** time of grant closing.

3. Drug-Free Work Place:

Prior to grant closing, the District will be required to execute Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) **Alternative I - For Grantees Other Than Individuals.**"

4. Repayment Period:

The loan will be scheduled for repayment over a period not to **exceed** 40 years from the date of the Bond. Principal payment will not be deferred for a period in **excess** of two years from the date of the Bond. Payments will be in accordance with applicable **KRS**, which requires interest to be paid semi-annually (January 1<sup>st</sup> and July 1<sup>st</sup>) and principal **will** be due on or before the first of January. Rural Development may require the District to **adopt** a supplemental payment agreement providing for monthly payments of principal and interest so long as the bond is held or insured by RUS. Monthly payments will be approximate **amortized** installments.

5. Recommended Repayment Method:

Payments on this loan shall be made using the Preauthorized Debit (**PAD**) payment method. This procedure eliminates the need for paper checks and ensures **timely** receipt of RD loan payments. To initiate PAD payments, Form RD 3550-28, "Authorization Agreement for Preauthorized Payments," should be signed by the District to **authorize** the electronic withdrawal of funds from your designated bank account on the **exact** installment payment due date. The Area Director will furnish the necessary forms and **further** guidance on the PAD procedure.

6. Reserve Accounts:

Reserves must be properly budgeted to maintain the financial **viability** of any operation. Reserves are important to fund unanticipated emergency **maintenance**, pay for repairs, and assist with debt service should the need arise.

The District will be required to deposit \$190 per month into a "**Funded Debt Reserve Account**" until the account reaches \$22,800. The deposits are to be resumed **any** time the account falls below the \$22,800.

The required monthly deposits to the Reserve Account and **required** Reserve Account levels are in addition to the requirements of the District's prior bond resolutions.

The monthly deposits to the Reserve Account are required to commence with the first month of the first full fiscal year after the facility becomes operational.

The District also needs to fund an account for short-lived assets by depositing a sum of \$900 monthly into the account. The funds in the short-lived asset account may be used by the District as needed to replace or add short-lived assets in the District's water system. This short-lived asset reserve amount replaces any previous short-lived assets requirements previously set with any prior RUS loan.

7. Security Requirements:

A combined pledge of gross water and sewer revenues will be provided in the Bond Resolution. Bonds shall rank on a parity with existing bonds, if possible.

If this is not possible, the bond will be subordinate and junior to the existing bonds, in which case the District will be required to abrogate its right to issue additional bonds ranking on a parity with the existing bonds, so long as any unpaid indebtedness remains on this bond issue.

8. Land Rights and Real Property:

The District will be required to furnish satisfactory title, easements, etc., necessary to install, maintain and operate the facility to serve the intended users. The pipelines will be on private rights-of-way where feasible. Easements and options are to be secured prior to advertising for construction bids.

9. Organization:

The District will be legally organized under applicable KRS which will permit them to perform this service, borrow and repay money.

10. Business Operations:

The District will be required to operate the system under a well-established set of resolutions, rules and regulations. A budget must be established annually and adopted by the District after review by Rural Development. At no later than loan pre-closing, the District will be required to furnish a prior approved management plan to include, as a minimum, provisions for management, maintenance, meter reading, miscellaneous services, billing, collecting, delayed payment penalties, disconnect/reconnect fees, bookkeeping, making and delivering required reports and audits.

11. Accounts, Records and Audits:

The District will be required to maintain adequate records and accounts and submit annual budgets and year-end reports (annual audits) in accordance with subsection 1780.47 of RUS Instruction 1780.

The District shall be required to submit a copy of its audit agreement for review and concurrence by Rural Development prior to pre-closing the loan.

The District will be required to establish and maintain separate **accounts** for each system. Annual audits, budgets, and reports will be submitted to Rural Development showing separate accounts.

12. Accomplish Audits for Years in Which Federal Financial Assistance is Received:

The District will accomplish audits in accordance with OMB Circular A-133, during the years in which federal funds are received. The District will provide **copies** of the audits to the Area Office and the appropriate Federal cognizant agency as designated by OMB Circular A-133.

13. Insurance and Bonding:

The following insurance and bonding will be required:

- A. Adequate Liability and Property Damage Insurance **including** vehicular coverage, if applicable, must be obtained and maintained by the **District**. The District should obtain amounts of coverage as recommended by its **attorney**, consulting engineer and/or insurance provider.
- B. Worker's Compensation - The District will carry worker's **compensation** insurance for employees in accordance with applicable state laws.
- C. Fidelity Bond - The District will provide Fidelity Bond **Coverage** for all persons who have access to funds. Coverage may be provided **either** for all individual positions or persons, or through "blanket" coverage **providing** protection for all appropriate employees and/or officials. The amount of **coverage** required for all RUS loans is \$166,000.
- D. Real Property Insurance - The District will obtain and **maintain** adequate fire and extended coverage on all structures including major items of equipment or machinery located in the structures. The amounts of **coverage** should be based on recommendations obtained by the District from its **attorney**, consulting engineer and/or insurance provider. Subsurface lift stations do not **have** to be covered except for the value of electrical and pumping equipment **therein**.
- E. Flood Insurance - The District will obtain and maintain **adequate** coverage on any facilities located in a special flood and mudslide prone **areas**.

14. Planning and Performing Development:

- A. The engineer should not be authorized to commence **work** on final plans and specifications until a determination has been made that **the project** can be planned and constructed within the estimated cost shown in **paragraph "24"** of this letter. The engineer may then proceed to develop final plans and specifications to be completed no later than 180 days from this date, and **prepare** bid documents. The Area Director is prepared to furnish the necessary guide **to follow** so as to keep the project plans and documents within our guidelines and **requirements**. The project should not be advertised for construction bids until all easements and

enforceable options have been obtained, and total funds are committed or available for the project.

- B. The following documents will be submitted to Rural Development for review and must be concurred in by Rural Development prior to advertisement for construction bids:

1. Final plans, specifications and bid documents.
2. Applicant's letter on efforts to encourage small business and minority-owned business participation.
3. Legal Service Agreements.
4. Engineering Agreements.

Revision in these documents will be subject to Rural Development concurrence. Any agreements, contracts, etc. not reviewed and approved by Rural Development will not be eligible for payment from project funds or revenues from facilities financed by this Agency.

Prior to receipt of an authorization to advertise for construction bids, the District will obtain advance clearance from Bond Counsel regarding compliance with KRS 424 pertaining to publishing of the advertisement for construction bids in local newspapers and the period of time the notice is required to be published.

15. Civil Rights & Equal Opportunity:

You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

A. Section 504 of the Rehabilitation Act of 1973:

Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Rural Development financial assistance.

B. Civil Rights Act of 1964:

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

C. The Americans with Disabilities Act (ADA) of 1990:

This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, state and local government services, public transportation, public accommodations, facilities, and telecommunications. Title

II of the Act applies to facilities operated by state and local public entities that provide services, programs, and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities that accommodate the public.

D. Age Discrimination Act of 1975:

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

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

16. Closing Instructions:

The Office of General Counsel, our Regional Attorney, will be required to write closing instructions in connection with this loan. Conditions listed therein must be met by the District.

17. Compliance with Special Laws and Regulations:

The District will be required to conform to any and all state and local laws and regulations affecting this type project.

18. Treatment Plant and System Operator:

The District is reminded that the treatment plant and system operator must have an Operator's Certificate issued by the State.

19. Prior to Pre-Closing the Loan, the District Will Be Required to Adopt:

- A. Form RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)."
- B. Form RD 400-1, "Equal Opportunity Agreement."
- C. Form RD 400-4, "Assurance Agreement."
- D. Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transaction."
- E. Form RD 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."
- F. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."
- G. RUS Bulletin 1780-22, "Eligibility Certification."

20. Refinancing and Graduation Requirements:

The District is reminded that if at any time it shall appear to the Government that the District is able to refinance the amount of the RUS indebtedness then outstanding, in whole or in part, by obtaining a loan from commercial sources at reasonable rates and terms, upon the request of the Government, the District will apply for and accept such loan in sufficient amount to repay the Government.

21. Commercial Interim Financing:

The District will be required to use commercial interim financing for the project during construction for the RUS loan portion of the financing, if available at reasonable rates and terms.

Before the loan is closed, the District will be required to provide Rural Development with statements from the contractor, engineer and attorneys that they have been paid to date in accordance with their contract or other agreements and, in the case of the contractor, that he has paid his suppliers and sub-contractors.

22. Disbursement of Project Funds:

A construction account for the purpose of disbursement of project funds (RUS) will be established by the District prior to start of construction. The position of officials entrusted with the receipt and disbursement of RUS project funds will be covered by a "Fidelity Bond," with USDA Rural Development as Co-Obligee, in the amount of construction funds on hand at any one time during the construction phase.

For each "construction account" as established, if the amount of RUS loan and grant funds plus any applicant contributions or funds from other sources to be deposited into the account are expected to exceed \$250,000 at any time, the financial institution will secure the amount in excess of \$250,000 by pledging collateral with the Federal Reserve Bank in an amount not less than the excess in accordance with 7 CFR, 1902.7(a).

During construction, the District shall disburse project funds in a manner consistent with subsection 1780.76 (e) of RUS Instruction 1780. Form RD 1924-18, "Partial Payment Estimate," or similar form approved by Rural Development, shall be used for the purpose of documenting periodic construction estimates, and shall be submitted to Rural Development for review and acceptance. Prior to disbursement of funds by the District, the Board of Directors shall review and approve each payment estimate. All bills and vouchers must be approved by Rural Development prior to payment by the District.

Form RD 440-11, "Estimate of Funds Needed for 30-Day Period Commencing \_\_\_\_\_," will be prepared by the District and submitted to Rural Development in order that a periodic advance of federal cash may be requested.

Borrowers receiving federal loan and/or grant funds by EFT will have funds directly deposited to a specified account at a financial institution with funds being available to the recipient on the date of payment. The borrower should complete Form SF-3881, "Electronic Funds Transfer Payment Enrollment Form," for each account where funds will be electronically received. The

completed form(s) must be received by Rural Development at least thirty (30) days prior to the first advance of funds.

Monthly audits of the District's construction account records shall be made by Rural Development.

23. Disbursement of Grant Funds:

The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of obligations due and payable by the District. Grant funds, upon receipt, must be deposited in an interest bearing account in accordance with 7 CFR part 3016 (as applicable). Interest earned on grant funds in excess of \$100 (as applicable) per year will be submitted to RUS at least quarterly.

24. Cost of Facility:

Breakdown of Costs:

Development	\$ 646,000
Legal and Administrative	8,900
Engineering	129,780
Interest	14,920
Contingencies	<u>64,600</u>
TOTAL	\$ 864,200

Financing:

RUS Loan	\$ 520,000
RUS Grant	<u>344,200</u>
TOTAL	\$ 864,200

25. Use of Remaining Project Funds:

After providing for all authorized costs, any remaining project funds will be considered to be RUS grant funds and refunded in proportion to participation in the project. If the amount of unused project funds exceeds the grants, that part would be RUS loan funds.

26. Proposed Operating Budget:

You will be required to submit to Rural Development a copy of your proposed annual operating budget that supports the proposed loan repayment prior to this agency giving you written authorization to proceed with the bidding phase. The operating budget should be based on a typical year cash flow, subject to completion of this project in the first full year of operation. Form RD 442-7, "Operating Budget," or similar form may be utilized for this purpose.

27. Rates and Charges:

Rates and charges for facilities and services rendered by the District must be at least adequate to meet cost of maintaining, repairing and operating the water and sewer system and meeting

required principal and interest payments and the required deposits to debt service and/or depreciation reserve.

Water rates will be at least:

First	2,000 gallons @ \$	20.74. - Minimum Bill.
Next	2,000 gallons @ \$	8.96. - per 1,000 gallons.
Next	2,000 gallons @ \$	8.06. - per 1,000 gallons.
All Over	6,000 gallons @ \$	7.53. - per 1,000 gallons.

Sewer rates will be at least:

First	2,000 gallons @ \$	25.12. - Minimum Bill.
All Over	2,000 gallons @ \$	12.56. - per 1,000 gallons.

28. Water Purchase Contract:

The District will submit a Water Purchase Contract for approval by Rural Development before advertising for construction bids. If the contract is not on Form RD 442-30, "Water Purchase Contract," the contract will require approval by our Regional Attorney. The contract must meet the requirements of subsection 1780.62 of RUS Instruction 1780.

29. Compliance with the Bioterrorism Act:

Prior to pre-closing the loan, the District will provide a certification they have completed a Vulnerability Assessment (VA) and prepared an emergency response plan (ERP) as required by the Safe Drinking Water Act (SDWA).

30. Floodplain Construction:

The District will be required to pass and adopt a Resolution or amend its By-Laws whereby the District will deny any water and sewer service to any future customer wishing to build on or develop property located within a designated floodplain. If a customer or developer requests service for construction in a designated floodplain, the customer or developer must provide evidence and a justification for approval by the District and Rural Development officials that there are no other alternatives to construction or development within the designated floodplain. The community must be a participant in the National Flood Insurance Program (NFIP) and the customer or developer must obtain the required permits prior to the tap on restrictions being waived.

31. Mitigation Measures:

- A. The line design and construction shall be accomplished in a way that will leave flood plains and farmland without effect after construction is complete. The Army Corps of Engineers Nationwide Permit No. 12 applies to all floodplain and wetland utility line construction.

- B. Any excavation by Contractor that uncovers a historical or archaeological artifact shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO).
- C. The design and construction shall be in compliance with all local, state and federal environmental statutes, regulations and executive orders applicable to the project.
- D. Best Management Practices shall be incorporated into the project design, construction, and maintenance.

32. Final Approval Conditions:

Final approval of this assistance will depend on your willingness, with the assistance of all your co-workers, to meet the conditions of this letter in an orderly and systematic manner. Then too, final approval will depend on funds being available.

If you desire to proceed with your application, the Area Director will allot a reasonable portion of time to provide guidance in application processing.

Sincerely,

THOMAS G. FERN  
State Director

Enclosures

cc: Area Director - Morehead, Kentucky  
Bluegrass ADD - Lexington, Kentucky  
Rubin & Hays - Louisville, Kentucky  
Robert King - Stanton, Kentucky  
MSE Engineers - Lexington, Kentucky  
PSC - ATTN: Dennis Jones - Frankfort, Kentucky



Rural Development

September 13, 2017

Kentucky State Office

771 Corporate Drive,  
Suite 200  
Lexington, KY  
40503

Steve Everman, Chairman  
Powell's Valley Water District  
P.O. Box 550  
Clay City, KY 40312

Voice 859.224.7300  
Fax 855.661.8335  
TTY 859.224.7422

Re: Letter of Conditions Dated August 30, 2012

Dear Mr. Everman:

This letter shall serve as Amendment No. 1 to the Letter of Conditions dated August 30, 2012. The purpose of this amendment is to revise the user rates and charges and make other editorial changes in accordance with current Rural Utilities Service (RUS) Instructions.

Paragraph numbered "27" is revised to read as follows:

"27. Rates and Charges:

Rates and charges for facilities and services rendered by the District must be at least adequate to meet cost of maintaining, repairing and operating the water and sewer system and meeting required principal and interest payments and the required deposits to debt service and/or depreciation reserve.

Water rates will be at least:

First	2,000	gallons @ \$23.22.	- Minimum Bill.
Next	2,000	gallons @ \$10.06.	- per 1,000 gallons.
Next	2,000	gallons @ \$ 9.07.	- per 1,000 gallons.
All Over	6,000	gallons @ \$ 8.48.	- per 1,000 gallons.

Sewer rates will be at least:

First	2,000	gallons @ \$27.57.	- Minimum Bill.
All Over	2,000	gallons @ \$13.78.	- per 1,000 gallons.

Paragraph numbered "33" is added as follows:

"33. Construction Completion Timeline:

All projects are required to be completed and all funds disbursed within five years of obligation. If funds are not disbursed within five years of obligation, you must submit a written waiver request with adequate justification of extenuating circumstances beyond your control for an extension of time.

USDA is an equal opportunity provider, employer and lender.

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

Any additional requests for waivers beyond the initial extension will be submitted through the State Office to the Assistant Administrator for concurrence decision.

The project funds were not disbursed within the five year timeframe. This project was obligated on September 19, 2012 and a waiver has already been approved. The maximum deadline for funds to be disbursed for this project is now March 31, 2018. ”

All other provisions of the referenced Letter of Conditions remain in full force and unchanged.

Sincerely,



JEFF JONES  
Acting State Director

cc: Area Director - Shelbyville, Kentucky  
Bluegrass ADD - Lexington, Kentucky  
MSE Engineers - Lexington, Kentucky  
Robert King - Stanton, Kentucky  
Rubin & Hays - Louisville, Kentucky  
PSC - ATTN: Talina Mathews - Frankfort, Kentucky

REQUEST FOR OBLIGATION OF FUNDS

<b>INSTRUCTIONS-TYPE IN CAPITALIZED ELITE TYPE IN SPACES MARKED ( )</b> Complete Items 1 through 29 and applicable Items 30 through 34. See FMI.			
<b>1. CASE NUMBER</b> ST CO BORROWER ID 20-099-*****1626		<b>LOAN NUMBER</b>	<b>FISCAL YEAR</b>
<b>2. BORROWER NAME</b> Powells Valley Water District		<b>3. NUMBER NAME FIELDS</b> (1, 2, or 3 from Item 2)	
		<b>4. STATE NAME</b> Kentucky	
		<b>5. COUNTY NAME</b> Powell	
<b>GENERAL BORROWER/LOAN INFORMATION</b>			
<b>6. RACE/ETHNIC CLASSIFICATION</b> 1 - WHITE 2 - BLACK 3 - AI/AN 4 - HISPANIC 5 - A/PI	<b>7. TYPE OF APPLICANT</b> 1 - INDIVIDUAL 2 - PARTNERSHIP 3 - CORPORATION 4 - PUBLIC BODY 5 - ASSOC. OF FARMERS 6 - ORG. OF FARMERS 7 - NONPROFIT-SECULAR 8 - NONPROFIT-FAITH BASED 9 - INDIAN TRIBE 10 - PUBLIC COLLEGE/UNIVERSITY 11 - OTHER	<b>8. COLLATERAL CODE</b> 1 - REAL ESTATE SECURED 2 - REAL ESTATE AND CHATTEL 3 - NOTE ONLY OR CHATTEL ONLY 4 - MACHINERY ONLY 5 - LIVESTOCK ONLY 6 - CROPS ONLY 7 - SECURED BY BONDS 8 - RLF ACCT	<b>9. EMPLOYEE RELATIONSHIP CODE</b> 1 - EMPLOYEE 2 - MEMBER OF FAMILY 3 - CLOSE RELATIVE 4 - ASSOC.
<b>10. SEX CODE</b> 1 - MALE 2 - FEMALE 3 - FAMILY UNIT 4 - ORGAN MALE OWNED 5 - ORGAN FEMALE OWNED 6 - PUBLIC BODY	<b>11. MARITAL STATUS</b> 1 - MARRIED 2 - SEPARATED 3 - UNMARRIED (INCLUDES WIDOWED/DIVORCED)	<b>12. VETERAN CODE</b> 1 - YES 2 - NO	<b>13. CREDIT REPORT</b> 1 - YES 2 - NO
<b>14. DIRECT PAYMENT</b> (See FMI)	<b>15. TYPE OF PAYMENT</b> 1 - MONTHLY 2 - ANNUALLY 3 - SEMI-ANNUALLY 4 - QUARTERLY	<b>16. FEE INSPECTION</b> 1 - YES 2 - NO	
<b>17. COMMUNITY SIZE</b> 1 - 10,000 OR LESS (FOR SFH AND HPG ONLY) 2 - OVER 10,000		<b>18. USE OF FUNDS CODE</b> (See FMI)	
<b>COMPLETE FOR OBLIGATION OF FUNDS</b>			
<b>19. TYPE OF ASSISTANCE</b> 067 (See FMI)	<b>20. PURPOSE CODE</b> 3	<b>21. SOURCE OF FUNDS</b>	<b>22. TYPE OF ACTION</b> 1 - OBLIGATION ONLY 2 - OBLIGATION/CHECK REQUEST 3 - CORRECTION OF OBLIGATION
<b>23. TYPE OF SUBMISSION</b> 1 - INITIAL 2 - SUBSEQUENT	<b>24. AMOUNT OF LOAN</b> \$520,000.00	<b>25. AMOUNT OF GRANT</b> \$344,200.00	
<b>26. AMOUNT OF IMMEDIATE ADVANCE</b>	<b>27. DATE OF APPROVAL</b> MO DAY YR 09 11 12	<b>28. INTEREST RATE</b> 2.7500 %	<b>29. REPAYMENT TERMS</b> 40
<b>COMPLETE FOR COMMUNITY PROGRAM AND CERTAIN MULTIPLE-FAMILY HOUSING LOANS</b>			
<b>30. PROFIT TYPE</b> 1 - FULL PROFIT 2 - LIMITED PROFIT 3 - NONPROFIT			
<b>COMPLETE FOR EM LOANS ONLY</b>		<b>COMPLETE FOR CREDIT SALE-ASSUMPTION</b>	
<b>31. DISASTER DESIGNATION NUMBER</b> (See FMI)	<b>32. TYPE OF SALE</b> 1 - CREDIT SALE ONLY 2 - ASSUMPTION ONLY 3 - CREDIT SALE WITH SUBSEQUENT LOAN 4 - ASSUMPTION WITH SUBSEQUENT LOAN		
<b>FINANCE OFFICE USE ONLY</b>		<b>COMPLETE FOR FP LOANS ONLY</b>	
<b>33. OBLIGATION DATE</b> MO DA YR		<b>34. BEGINNING FARMER/RANCHER</b> (See FMI)	

If the decision contained above in this form results in denial, reduction or cancellation of USDA assistance, you may appeal this decision and have a hearing or you may request a review in lieu of a hearing. Please use the form we have included for this purpose.

Position 2

ORIGINAL - Borrower's Case Folder    COPY 1 - Finance Office    COPY 2 - Applicant/Lender    COPY 3 - State Office

CERTIFICATION APPROVAL

For All Farmers Programs

EM, OL, FO, and SW Loans

This loan is approved subject to the availability of funds. If this loan does not close for any reason within 90 days from the date of approval on this document, the approval official will request updated eligibility information. The undersigned loan applicant agrees that the approval official will have 14 working days to review any updated information prior to submitting this document for obligation of funds. If there have been significant changes that may affect eligibility, a decision as to eligibility and feasibility will be made within 30 days from the time the applicant provides the necessary information.

If this is a loan approval for which a lien and/or title search is necessary, the undersigned applicant agrees that the 15-working-day loan closing requirement may be exceeded for the purposes of the applicant's legal representative completing title work and completing loan closing.

35. COMMENTS AND REQUIREMENTS OF CERTIFYING OFFICIAL

Approval of financial assistance is subject to the provisions of the Letter of Conditions dated 8/30/12 and any amendments thereto.

36. I HEREBY CERTIFY that I am unable to obtain sufficient credit elsewhere to finance my actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near my community for loans for similar purposes and periods of time. I agree to use the sum specified herein, subject to and in accordance with regulations applicable to the type of assistance indicated above, and request payment of such sum. I agree to report to USDA any material adverse changes, financial or otherwise, that occur prior to loan closing. I certify that no part of the sum specified herein has been received. I have reviewed the loan approval requirements and comments associated with this loan request and agree to comply with these provisions.

(For FP loans at eligible terms only) If this loan is approved, I elect the interest rate to be charged on my loan to be the lower of the interest rate in effect at the time of loan approval or loan closing. If I check "NO", the interest rate charged on my loan will be the rate specified in Item 28 of this form. YES NO

WARNING: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

Date 9-11, 20 12 Stephen Everman, Chairman (Signature of Applicant)

Date \_\_\_\_\_, 20 \_\_\_\_\_ (Signature of Co-Applicant)

37. I HEREBY CERTIFY that all of the committee and administrative determinations and certifications required by regulations prerequisite to providing assistance of the type indicated above have been made and that evidence thereof is in the docket, and that all requirements of pertinent regulations have been complied with. I hereby approve the above-described assistance in the amount set forth above, and by this document, subject to the availability of funds, the Government agrees to advance such amount to the applicant for the purpose of and subject to the availability prescribed by regulations applicable to this type of assistance.

(Signature of Approving Official)

Typed or Printed Name: Thomas G. Fern

Date Approved: 9-11-12 Title: State Director

38. TO THE APPLICANT: As of this date 9-19-12, this is notice that your application for financial assistance from the USDA has been approved, as indicated above, subject to the availability of funds and other conditions required by the USDA. If you have any questions contact the appropriate USDA Servicing Office.



Rural Development

September 18, 2017

Kentucky State Office

771 Corporate Drive,  
Suite 200  
Lexington, KY  
40503

SUBJECT: Powell's Valley Water District  
Water System Improvements  
Contract Award Concurrence

Voice 859.224.7300  
Fax 859.224.7425  
TTY 859.224.7422

TO: Area Office  
Shelbyville, Kentucky

Based on the bids received and the recommendation of the consulting engineer, Rural Development concurs in the award of subject contract to the low bidder on Contract 1, Frederick and May Construction Co., Inc., in the amount of \$517,937, and the award of the subject contract to the low bidder on Contract 2, Huffman Tanks and Tower, Inc., in the amount of \$135,500.

If you have any questions, please contact Julie Anderson, State Engineer, at (859) 224-7348.



Jeff Jones  
Acting State Director  
Rural Development

cc: MSE  
Lexington, Kentucky

Randy Jones  
Lexington, Kentucky

USDA is an equal opportunity provider and employer.

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

**CERTIFICATE OF CHAIRMAN OF THE POWELL'S VALLEY  
WATER DISTRICT AS TO STATEMENT REQUIRED BY  
SECTION 2(6) OF 807 KAR 5:069**

I, the undersigned, hereby certify that I am the duly qualified and acting Chairman of the Powell's Valley Water District and that said District is in the process of arranging to finance the construction of improvements to the system (the "Project"), in cooperation with MSE of Kentucky, Inc., Lexington, Kentucky, the Engineers for the District (the "Engineers").

Based on information furnished to me by said Engineers, I hereby certify as follows:

1. That the proposed plans and specifications for the Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066 Section 4(3) and (4); Section 5(1); Sections 6 and 7; Section 8(1) through (3); Section 9(1) and Section 10.
2. That all other state approvals and/or permits have been obtained.
3. That the rates proposed by the District in its current Application filed with the Kentucky Public Service Commission are contemplated to produce total revenue requirements recommended in the Engineering Reports prepared by such Engineers and filed with the Public Service Commission.
4. That it is now contemplated that construction of the Project will begin on or about November 15, 2017, and will end on or about March 15, 2018.

IN TESTIMONY WHEREOF, witness my signature this September 19, 2017.

  
\_\_\_\_\_  
Chairman  
Powell's Valley Water District

STATE OF KENTUCKY            )  
  ) SS  
COUNTY OF POWELL         )

Subscribed and sworn to before me by Steve Everman, Chairman of the Board of Commissioners of the Powell's Valley Water District on this September 19, 2017.

  
\_\_\_\_\_  
Notary Public  
In and For Said State and County

## NOTICE OF PROPOSED RATE CHANGE

In accordance with the requirements of the Kentucky Public Service Commission (“PSC”) as set out in 807 KAR 5:069, Section 3, notice is hereby given to the customers of the Powells Valley Water District (“District”) of a change in water and sewer rates for users of the District's system. The changes in rates are required by the U.S. Department of Agriculture, acting through Rural Development (“RD”) in connection with a loan by RD to the District in the principal amount of \$520,000 to be evidenced by the issuance by the District of its revenue bonds in such amount, which RD has agreed to purchase provided the District meets certain conditions of RD, including revising the water and sewer rates as set forth below:

### Current Monthly Water Rates

First 2,000 gallons	\$21.08	Minimum
Next 2,000 gallons	\$9.13	Per 1,000 gallons
Next 2,000 gallons	\$8.23	Per 1,000 gallons
All Over 6,000 gallons	\$7.70	Per 1,000 gallons

### Current Monthly Sewer Rates

First 2,000 gallons	\$25.12	Minimum
All Over 6,000 gallons	\$12.56	Per 1,000 gallons

### Proposed Monthly Water Rates

	<u>New Monthly Rate</u>	<u>Dollar Change</u>	<u>Percent Change</u>
First 2,000 gallons	\$23.32	\$2.24	10%
Next 2,000 gallons	\$10.06	\$0.93	10%
Next 2,000 gallons	\$9.07	\$0.84	10%
All Over 6,000 gallons	\$8.48	\$0.78	10%

### Proposed Monthly Sewer Rates

	<u>New Monthly Rate</u>	<u>Dollar Change</u>	<u>Percent Change</u>
First 2,000 gallons	\$27.57	\$2.45	10%
All Over 6,000 gallons	\$13.78	\$1.22	10%

The proposed monthly water and sewer rates shall be effective after the date of the final approving Order of the PSC, which Order is expected to be issued no later than 30 days of the filing of the Application. The amount of average usage for all water customers in the calendar year 2015 was 5227 gallons per month thus generating an average monthly billing based on current rates of \$48.79. The proposed monthly rates will increase the average monthly billing to \$53.74 for an impact of \$4.95 or 10%. The amount of average usage for all sewer customers in the calendar year 2015 was 4,134 gallons per month thus generating an average monthly billing

based on current rates of \$51.92. The proposed monthly rates will increase the average monthly billing to \$56.98 for an impact of \$5.06 or 10%.

The Application for approval of the rate change has been filed with the PSC and may be examined during normal business hours at the following locations: (i) Powells Valley Water District Office, 31 Adams Ridge Road, Clay City, Kentucky 40312; (ii) PSC, 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., E.T.; and (iii) via the PSC website at <http://psc.ky.gov>. Comments regarding the Application may be submitted to the PSC via its website or by mail to PSC, P.O. Box 615, Frankfort, Kentucky 40602.

The proposed rates are required under the terms of an agreement between the District and RD and KRS 278.023 does not grant the PSC any discretionary authority to modify or reject any portion of the agreement between the District and RD, or to defer the issuance of all necessary orders to implement the terms of the agreement. The RD loan proceeds will be used to finance the costs of the (i) installation of approximately 2000 linear feet of 3 inch water main extensions and associated appurtenances; (ii) upgrades and replacements of 3 pump stations; (iii) repainting of an existing water storage tank; and (iv) installation of tank circulation facilities for 3 tanks. Signed: Steve Everman, Chairman, Powells Valley Water District.