

The Fyffe Jones Group

2155 Carter Avenue
P. O. Box 2245
Ashland, KY 41105-2245
606-329-8604

806 Chillicothe Street
Portsmouth, OH 45662
740-353-0400

1033 Twentieth Street
P.O. Box 1148
Huntington, WV 25713-1148
304-525-8592

RECEIVED

JAN 28 2019

PUBLIC SERVICE
COMMISSION

January 25, 2019

Gwen R. Pinson, Executive Director
Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602

Re: Case No. 2018-00230

Dear Gwen:

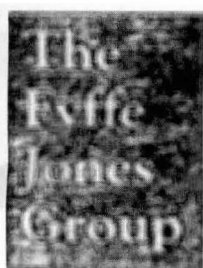
I testified in this case most of yesterday, Thursday and with a three hour travel home I did not return to work that day. I had meetings today so I am putting this together a little late trying to meet the Monday deadline.

Per the emailed request from Andrew Bowker Thursday 1/24/2019 at 3:49pm, here is the information requested:

1. The engagement letter.
2. The emails
 - a. The first one is the voice message from Eddie Campbell on August 21, 2018 which I testified was the first communication I had on this case.
 - b. The emails are in date order. The August 30, 2018 was the original list of info needed and forwarded to Dean Hall. The email dated October 17, 2018 would have been the second request for this information with the CPA included.
3. The list of documents submitted to Southern District needed to perform the appraisal is in item 2b above as part of the emails.
4. The Agreement with a summary in front is what was provided and included a reference to the \$2,000,000 in two places, once to pay to the Floyd Fiscal Court and the other when they decided it would be better if paid directly to Southern instead.

Thanks,

Terry R. Fyffe, CPA, ABV



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JAN 28 2019

PUBLIC SERVICE
COMMISSION

August 26, 2018

Eddie Campbell
C/O Prestonsburg City Utilities
2560 South Lake Drive
Prestonsburg, Kentucky 41653

RE: Valuation of Water Customers assumed Southern Utility

Dear Mr. Campbell:

This letter constitutes an agreement between the Company and **The Fyffe Jones Group** under which we will provide valuation consulting services to you in connection with the purchase referenced above. Our services will be directed by you. Accordingly, it is intended that our workproduct will be covered under the client privilege.

The professional consulting services we currently expect to provide include:

- Performing a valuation of the customer base acquired from Southern Utilities.
- Any other services requested by you.

The objective of our valuation will be to estimate the fair market value of the acquired interests. Although our valuation is intended to estimate the fair market value, we assume no responsibility for a seller's or buyer's inability to obtain a purchase contract at that price.

In performing our valuation, we will be relying on the accuracy and reliability of the company's historical financial statements, forecasts of future operations, and other financial data provided by you. We will not audit, compile, or review those financial statements, forecasts, or other financial data. At the conclusion of our valuation services, we will ask you to sign a representation letter on the accuracy and reliability of the financial information provided by you which was used in the valuation process. Our services cannot be relied on to disclose errors, irregularities, or illegal acts, including fraud or defalcations that may exist.

We will document the results of our valuation services in a formal, written report. We have no responsibility to update our valuation report for events and circumstances that occur after the date of its issuance. We understand that our valuation report will be used to support the acquisition and it will not be distributed to anyone not involved in that process. If we are unable to complete our valuation services, we will not issue a report.

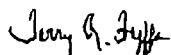
During the course of our engagement, it may be necessary for us to prepare written reports that support our conclusions. These reports are to be used only in connection with the referenced transaction and may not be published or used in any other manner without the written consent of this firm.

We will submit bills to you monthly, payable within 30 days, which will be based on our standard hourly rate for this type of consulting of \$250 per hour, plus out-of-pocket expenses.. All other services will be hourly plus expenses. Although our services will be directed by you, the Company will be responsible for paying our fees. All invoices are payable within 30 days of invoice date. If not paid within 30 days, interest will begin accruing at 1.5% per month. If not paid within 60 days, we will discontinue our services until satisfactory financial arrangements are made. You agree to pay reasonable attorney fees and collection costs incurred by our firm relating to collection of fees for services performed under the terms of this engagement. The provision of this paragraph will be effective to the maximum extent permitted under applicable law.

Our customary practice in litigation consulting engagements is to receive a non-refundable retainer of \$5,000 per valuation before beginning work. The retainer will be applied towards payment of our final billing in connection with this engagement. In order to maintain our independence, all fees billed to date will need to be paid prior to testimony, if needed.

This agreement will become effective as soon as you sign and date the original and copy of this letter and return the signed copy to us with the retainer, no later than September 4, 2018. If the need for additional services arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter.

Sincerely,



Terry R. Fyffe, CPA

Accepted by  Date 9/18/18
Prestonsburg City Utilities

Terry Fyffe

From: IPO-VMS
Sent: Tuesday, August 21, 2018 10:09 AM
To: Terry Fyffe
Subject: Voicemail Message (PRESTONSBURG CI > 203) From:916068891504
Attachments: MSG01653.WAV

IP Office Voicemail redirected message

RECEIVED

JAN 28 2019

**PUBLIC SERVICE
COMMISSION**

Terry Fyffe

From: Brenna Heaberlin
Sent: Thursday, August 23, 2018 9:54 AM
To: Terry Fyffe
Subject: RE: Voicemail Message (PRESTONSBURG CI > 203) From:916068891504

He said Monday will be fine, he will be in a meeting from 10:00-1:00 so prior to ten or after one would be great. [REDACTED]
[REDACTED]

-----Original Message-----

From: Terry Fyffe
Sent: Wednesday, August 22, 2018 5:46 PM
To: Brenna Heaberlin
Subject: FW: Voicemail Message (PRESTONSBURG CI > 203) From:916068891504

Please call him back and explain I am out of town and see if I can respond on Monday, then if okay, post to my calendar.

-----Original Message-----

From: IPO-VMS
Sent: Tuesday, August 21, 2018 10:09 AM
To: Terry Fyffe
Subject: Voicemail Message (PRESTONSBURG CI > 203) From:916068891504

IP Office Voicemail redirected message

Terry Fyffe

From: Terry Fyffe
Sent: Thursday, August 30, 2018 3:54 PM
To: [REDACTED]
Cc: Tyler Gatrell; Terry Fyffe
Subject: Southern utilities project

Kind of a test message. You are to provide me:

1. Signed Engagement Letter
2. Southern revenues they lost, with cost savings they gained, along with their last full years financials.
3. Prestonsburg City revenues they gained, associated incremental costs, and separate debt service requirements, along with last full years financials.
4. Any description of the area taken in, otherwise I will use: beginning on US 23 towards Pikeville at the end of previous service area, running on US 23 until Pike County Line, with two lengthy hollows with several residential customers. Most US 23 customers are commercial, varying services with emphasis on additional sewer services to most of the acquired area.
5. Copy of the purchase agreement and any other pertinent documents you feel important to review.

This ought to get us started. Please copy Tyler in all our emails as he will be assisting me on this project.

Thanks,

Terry R. Fyffe, CPA, ABV
2155 Carter Avenue
P.O. Box 2245
Ashland, Kentucky 41105-2245
Phone: 606-329-8604
Fax: 606-324-2823
[REDACTED]

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The Fyffe Jones Group

Terry Fyffe

From: Eddie Campbell [REDACTED]
Sent: Thursday, August 30, 2018 5:42 PM
To: 'Terry Fyffe'; [REDACTED]
Cc: 'Tyler Gatrell'
Subject: RE: Southern utilities project

Thank you Terry. I will be gathering all the information you have requested including the signed engagement letter with hopes to get it all to you by tomorrow afternoon.

Have a good rest of your day,

Eddie

Turner E. Campbell, Superintendent/CEO
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653
(606) 886-6871 (O)
[REDACTED]
(606) 889-1512 (Fax)
[REDACTED]

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From: Terry Fyffe [REDACTED]
Sent: Thursday, August 30, 2018 3:54 PM
To: [REDACTED]
Cc: Tyler Gatrell; Terry Fyffe
Subject: Southern utilities project

Kind of a test message. You are to provide me:

1. Signed Engagement Letter
2. Southern revenues they lost, with cost savings they gained, along with their last full years financials.
3. Prestonsburg City revenues they gained, associated incremental costs, and separate debt service requirements, along with last full years financials.
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5. Copy of the purchase agreement and any other pertinent documents you feel important to review.

This ought to get us started. Please copy Tyler in all our emails as he will be assisting me on this project.

Thanks,

Terry R. Fyffe, CPA, ABV
2155 Carter Avenue
P.O. Box 2245

Terry Fyffe

From: Eddie Campbell [REDACTED]
Sent: Tuesday, September 04, 2018 4:01 PM
To: Terry Fyffe
Cc: [REDACTED]
Subject: Southern Project

Good Afternoon Terry,

I apologize for not having the signed engagement letter and the information you need to you as of yet. I am awaiting some key financial info from Southern. I will send all to you as soon as possible.

Eddie

Turner E. Campbell, Superintendent/CEO
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653
(606) 886-6871 (O)
[REDACTED]
(606) 889-1512 (Fax)
[REDACTED]

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Terry Fyffe

From: Eddie Campbell [REDACTED]
Sent: Tuesday, September 25, 2018 3:10 PM
To: 'Terry Fyffe'; [REDACTED]
Cc: 'Tyler Gatrell'
Subject: RE: Southern utilities project
Attachments: Southern Asset Purchase Agreement & Summary - Fyffe.pdf; PCUC FY2018 Financials - Fyffe.pdf; PCUC FY2018 Financial Details - Southern-Fyffe.xlsx

Good Afternoon Terry,

I pray this message finds you well.

Attached please find a substantial lot of Prestonsburg City's Utilities Commission information to, as you put it, "get you started".

If you have any questions please do not hesitate to let me know.

Have a good rest of your day,

Eddie

Turner E. Campbell, Superintendent/CEO
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653
(606) 886-6871 (O)
[REDACTED]
(606) 889-1512 (Fax)
[REDACTED]

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From: Terry Fyffe [REDACTED]
Sent: Thursday, August 30, 2018 3:54 PM
To: [REDACTED]
Cc: Tyler Gatrell; Terry Fyffe
Subject: Southern utilities project

Kind of a test message. You are to provide me:

1. Signed Engagement Letter
2. Southern revenues they lost, with cost savings they gained, along with their last full years financials.
3. Prestonsburg City revenues they gained, associated incremental costs, and separate debt service requirements, along with last full years financials.
4. Any description of the area taken in, otherwise I will use: beginning on US 23 towards Pikeville at the end of previous service area, running on US 23 until Pike County Line, with two lengthy hollows with several residential customers. Most US 23 customers are commercial, varying services with emphasis on additional sewer services to most of the acquired area.

5. Copy of the purchase agreement and any other pertinent documents you feel important to review.

This ought to get us started. Please copy Tyler in all our emails as he will be assisting me on this project.

Thanks,

Terry R. Fyffe, CPA, ABV
2155 Carter Avenue
P.O. Box 2245
Ashland, Kentucky 41105-2245
Phone: 606-329-8604
Fax: 606-324-2823
[REDACTED]

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The Fyffe Jones Group

Terry Fyffe

From: Dean Hall [REDACTED]
Sent: Tuesday, September 25, 2018 3:58 PM
To: Terry Fyffe
Cc: Floyd Co. Judge/Executive (Ben Hale); Hoff Douglas - RD Morehead KY; [REDACTED]
Subject: Fw: Sewer Assets 2017
Attachments: Scanned-image_09-25-2018-145309.pdf

Mr. Fyffe please consider these Sewer assets that Southern transferred to Pcuc in your appraisal.

On Tuesday, September 25, 2018 3:17 PM, Paula Burke [REDACTED] wrote:

Paula Burke
Office Manager
Southern Water & Sewer District
[REDACTED]



Virus-free. www.avast.com

Terry Fyffe

From: Dean Hall [REDACTED]
Sent: Tuesday, September 25, 2018 4:38 PM
To: Terry Fyffe
Cc: 'Floyd Co. Judge/Executive (Ben Hale)'; 'Hoff Douglas - RD Morehead KY'; [REDACTED]; Jeff Reed
Subject: Re: Sewer Assets 2017

It should be the total at the bottom 7,869,012.07, disregard the marks by number 4 and number 14.

On Tuesday, September 25, 2018 4:22 PM, Terry Fyffe [REDACTED] wrote:

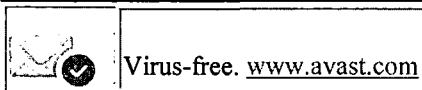
Are they the ones marked Asset #4 2005 Pump Stations cost \$858,200.00 and Asset #14 Harold Sewer Plant cost \$2,085,656.62 or the entire group?

From: Dean Hall [REDACTED]
Sent: Tuesday, September 25, 2018 3:58 PM
To: Terry Fyffe
Cc: Floyd Co. Judge/Executive (Ben Hale); Hoff Douglas - RD Morehead KY; [REDACTED]
Subject: Fw: Sewer Assets 2017

Mr. Fyffe please consider these Sewer assets that Southern transferred to Pcuc in your appraisal.

On Tuesday, September 25, 2018 3:17 PM, Paula Burke [REDACTED] wrote:

Paula Burke
Office Manager
Southern Water & Sewer District
606-377-9296



Terry Fyffe

From: Terry Fyffe [REDACTED]
Sent: Tuesday, September 25, 2018 4:56 PM
To: [REDACTED]
Cc: Terry Fyffe
Subject: FW: Sewer Assets 2017
Attachments: Scanned-image_09-25-2018-145309.pdf

Eddie, Please find attached the list of assets received that Southern represents were transferred to Prestonsburg. Please confirm if you agree or not.

From: Dean Hall [REDACTED]
Sent: Tuesday, September 25, 2018 3:58 PM
To: Terry Fyffe
Cc: Floyd Co. Judge/Executive (Ben Hale); Hoff Douglas - RD Morehead KY; [REDACTED]
Subject: Fw: Sewer Assets 2017

Mr. Fyffe please consider these Sewer assets that Southern transferred to Pcuc in your appraisal.

On Tuesday, September 25, 2018 3:17 PM, Paula Burke [REDACTED] wrote:

Paula Burke
Office Manager
Southern Water & Sewer District
606-377-9296



Virus-free. www.avast.com

Terry Fyffe

From: Eddie Campbell [REDACTED]
Sent: Tuesday, October 02, 2018 8:55 AM
To: Terry Fyffe
Cc: Tyler Gatrell
Subject: Southern-PCUC Evaluation

Good Morning Terry,

I pray this message finds you well. Just wondering if Southern has submitted any financial information to you as of yet. If not please let me know so I can do a little "nudging".

Hopefully you received the information I sent you and Tyler. Please do not hesitate to let me know if you need anything further.

Have a good day,

Eddie

Turner E. Campbell, Superintendent/CEO
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653
(606) 886-6871 (O)
[REDACTED]
(606) 889-1512 (Fax)
[REDACTED]

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Terry Fyffe

From: Terry Fyffe [REDACTED]
Sent: Tuesday, October 02, 2018 9:08 AM
To: [REDACTED]
Cc: Terry Fyffe
Subject: FW: Sewer Assets 2017
Attachments: Scanned-image_09-25-2018-145309.pdf

Eddie, I sent this to you on 9/25 looking for a response as to verify these are the assets that were transferred. This is all I have received from them, no financial information. I will need their annual financials for at least three but preferably five years. They should be able to give me the Revenues for the accounts they lost for a number of years, which I should be able to match with yours since the contract called for no rate increases for two years.

As you can see the assets schedule show substantial assets being transferred and that is why I was hoping you could verify/agree or disagree.

Terry R. Fyffe, CPA, ABV
2155 Carter Avenue
P.O. Box 2245
Ashland, Kentucky 41105-2245
Phone: 606-329-8604
Fax: 606-324-2823
[REDACTED]

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The Fyffe Jones Group

From: Terry Fyffe [REDACTED]
Sent: Tuesday, September 25, 2018 4:56 PM
To: [REDACTED]
Cc: Terry Fyffe
Subject: FW: Sewer Assets 2017

Eddie, Please find attached the list of assets received that Southern represents were transferred to Prestonsburg. Please confirm if you agree or not.

From: Dean Hall [REDACTED]
Sent: Tuesday, September 25, 2018 3:58 PM
To: Terry Fyffe
Cc: Floyd Co. Judge/Executive (Ben Hale); Hoff Douglas - RD Morehead KY; [REDACTED]
Subject: Fw: Sewer Assets 2017

Mr. Fyffe please consider these Sewer assets that Southern transferred to Pcu in your appraisal.

On Tuesday, September 25, 2018 3:17 PM, Paula Burke <[REDACTED]> wrote:

Terry Fyffe

From: Eddie Campbell [REDACTED]
Sent: Wednesday, October 03, 2018 7:52 AM
To: 'Terry Fyffe'
Subject: RE: Here it is

Good Morning Sir,

I would think the reason the water assets are left off is because those assets have not been officially transferred over to Prestonsburg (true ownership) due to USDA/Rural Development not having signed off on the transfer. All parties were tickled to death that we acquired the failing sewer assets/systems from Southern so no one protested at all. It is the water assets that have caused the concern even though that portion of the asset transfer was such a huge benefit to the folks that matter, the customers. An agreement that the attorney labeled as granting "beneficial ownership" of the water assets to Prestonsburg became effective July 1, 2017 between Southern and Prestonsburg. Since that date Prestonsburg has operated that area, collecting the revenue, upgrading the system in a big manner and maintain it, essentially "owning but not owning" the assets. Your evaluation is what Rural Development is waiting on in order to approve the transfer of the water assets. This has been a crazy process for nearly two years now.

Eddie

From: Terry Fyffe [REDACTED]
Sent: Tuesday, October 2, 2018 5:34 PM
To: 'Eddie Campbell'
Subject: RE: Here it is

Why would they have left that off?

From: Eddie Campbell [REDACTED]
Sent: Tuesday, October 02, 2018 5:19 PM
To: 'Terry Fyffe'
Subject: RE: Here it is

Got it sir. Thank you for all your efforts to get it here.

This listing is for the wastewater assets only. The water assets that are still in limbo with USDA/Rural Development are represented by the first line on the attached Southern Asset Listing, "2007 MAINS (SANDY VALLEY) \$542,732.45.

You need anything further from me at this time?

Eddie

From: Terry Fyffe [REDACTED]
Sent: Tuesday, October 2, 2018 4:15 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Here it is

Terry R. Fyffe, CPA, ABV
2155 Carter Avenue

Terry Fyffe

From: Eddie Campbell [REDACTED]
Sent: Monday, October 08, 2018 11:26 AM
To: Terry Fyffe
Subject: Southern - PCUC Evaluations

Good Morning Terry,

Just wanted to check with you as to the progress of the evaluations. Hopefully everything is running smoothly but if you need anything at all from us please do not hesitate to let me know.

Have a good day sir,

Eddie

Turner E. Campbell, Superintendent/CEO
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653
(606) 886-6871 (O)
[REDACTED]
(606) 889-1512 (Fax)
ecpcuc@bellsouth.net

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Terry Fyffe

From: Terry Fyffe [REDACTED]
Sent: Wednesday, October 17, 2018 10:42 AM
To: 'Dean Hall'
Cc: 'Jeff Reed'; Terry Fyffe
Subject: RE: appraisal

Dean,

Here is what we were supposed to receive from you:

1. Financial Statements for 2017, 2016, 2015, 2014, 2013.
2. Current year FS as of 6/30/18.
3. Customer List of clients transferred and annual income collected for last full year (for loss of revenue calculation).
4. I did receive the list of assets from you that were transferred,

I have not received items 1-3 above. I have received the agreement from Eddie and other information, but it did not include Southern financials.

Thanks, Terry

From: Dean Hall [REDACTED]
Sent: Wednesday, October 17, 2018 10:29 AM
To: Terry Fyffe
Cc: Jeff Reed
Subject: appraisal

What's the status of the appraisal????? I need it for the 2017 audit.

Terry Fyffe

From: Dean Hall <deanm.hall@bellsouth.net>
Sent: Wednesday, October 17, 2018 10:46 AM
To: Terry Fyffe
Subject: Re: appraisal

Thank You, we'll get to work on it.

On Wednesday, October 17, 2018 10:42 AM, Terry Fyffe <trfyffe@fja-cpas.com> wrote:

Dean,

Here is what we were supposed to receive from you:

1. Financial Statements for 2017, 2016, 2015, 2014, 2013.
2. Current year FS as of 6/30/18.
3. Customer List of clients transferred and annual income collected for last full year (for loss of revenue calculation).
4. I did receive the list of assets from you that were transferred,

I have not received items 1-3 above. I have received the agreement from Eddie and other information, but it did not include Southern financials.

Thanks, Terry

From: Dean Hall [REDACTED]
Sent: Wednesday, October 17, 2018 10:29 AM
To: Terry Fyffe
Cc: Jeff Reed
Subject: appraisal

What's the status of the appraisal????? I need it for the 2017 audit.

Terry Fyffe

From: Eddie Campbell <ecpcuc@bellsouth.net>
Sent: Friday, October 26, 2018 7:55 AM
To: Terry Fyffe
Cc: Tyler Gatrell
Subject: Southern Rate Increase Request PSC Order
Attachments: Southern Rate Increase.pdf

Gentlemen,

Here is the Kentucky Public Service Commission Order this week granting Southern Water a substantial rate increase.

Eddie

Turner E. Campbell, Superintendent/CEO
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653
(606) 886-6871 (O)
[REDACTED]
(606) 889-1512 (Fax)
ecpcuc@bellsouth.net

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Terry Fyffe

From: Terry Fyffe [REDACTED]
Sent: Friday, October 26, 2018 9:20 AM
To: 'Eddie Campbell'
Cc: Tyler Gatrell; Terry Fyffe
Subject: RE: Southern Rate Increase Request PSC Order

I have requested the "lost revenue" and resulting changes in expenses twice. But this report by the PSC seems to have the information. Although they didn't give them credit for some things since they didn't file with the PSC, they gave them a higher increase overall than what they requested. They didn't give them the rate they wanted on the first 2000 (which would have given them more revenue since they don't read meters) but looks like they need to start reading meters as the second tier went from 19% to the 38% also.

I would think the Federal Government would be satisfied that the PSC did a detailed analysis and I plan on attaching this to my report. I just need to see what Dean sends me and compare to this report so I can do the calculations. His last response was he would get right on that.

Thanks for the info!

Terry

From: Eddie Campbell [REDACTED]
Sent: Friday, October 26, 2018 7:55 AM
To: Terry Fyffe
Cc: Tyler Gatrell
Subject: Southern Rate Increase Request PSC Order

Gentlemen,

Here is the Kentucky Public Service Commission Order this week granting Southern Water a substantial rate increase.

Eddie

Turner E. Campbell, Superintendent/CEO
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653
(606) 886-6871 (O)
[REDACTED]
(606) 889-1512 (Fax)
[REDACTED]

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Terry Fyffe

From: Terry Fyffe
Sent: Thursday, November 01, 2018 11:09 AM
To: [REDACTED]
Cc: Terry Fyffe; Tyler Gatrell
Subject: Unsigned Draft of my final report
Attachments: Southern Water and Sewer District.pdf

Dean and Eddie,

Please find attached a draft of my report. Please read the verbiage to make sure I haven't misrepresented anything. If you find an error, please let me know and I will correct. Upon correction, I will sign and issue the final report.

If you have any questions, I suggest we have a telephone conference to discuss as I understand both parties have to be satisfied with this report.

Thanks,

Terry R. Fyffe, CPA, ABV
2155 Carter Avenue
P.O. Box 2245
Ashland, Kentucky 41105-2245
Phone: 606-329-8604
Fax: 606-324-2823
[REDACTED]

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The Fyffe Jones Group

Terry Fyffe

From: Dean Hall [REDACTED]
Sent: Monday, November 05, 2018 10:00 AM
To: Terry Fyffe; [REDACTED]
Cc: Tyler Gatrell
Subject: Re: Unsigned Draft of my final report

Terry,

Southern Water's Board Doesn't approve this report Today, It is being reviewed by our CPA and Auditor, Southern's Board should make a decision on 11-19-18 at its monthly Board meeting. I will be calling you later this week to discuss further.

Thanks

Dean

On Monday, November 5, 2018 9:02 AM, Terry Fyffe [REDACTED] wrote:

Dean,

I have not heard back from you, but Eddie did approve. Please read the verbiage and let me know if anything needs changed. If I don't hear back by Friday, I will assume everything is alright and issue the final report as I know this was time sensitive.

Thanks,

Terry

From: Terry Fyffe
Sent: Thursday, November 01, 2018 11:09 AM
To: [REDACTED]
Cc: Terry Fyffe; Tyler Gatrell
Subject: Unsigned Draft of my final report

Dean and Eddie,

Please find attached a draft of my report. Please read the verbiage to make sure I haven't misrepresented anything. If you find an error, please let me know and I will correct. Upon correction, I will sign and issue the final report.

If you have any questions, I suggest we have a telephone conference to discuss as I understand both parties have to be satisfied with this report.

Thanks,

Terry R. Fyffe, CPA, ABV
2155 Carter Avenue
P.O. Box 2245

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-----Original Message-----

[REDACTED]
[REDACTED]

Sent: Tuesday, November 6, 2018 7:25 AM

To: [REDACTED]

Subject: Scanned from a Xerox Multifunction Printer

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Terry Fyffe

From: Terry Fyffe [REDACTED]
Sent: Tuesday, November 20, 2018 1:18 PM
To: 'Dean Hall'
Cc: [REDACTED]; Terry Fyffe
Subject: RE: Meeting??

Since the two of you represent each respective District, Please consider the following:

1. I can't value the assets that are in the ground but their value is determined by the Revenues they produce.
2. I was contracted to determine the value of the Revenues that transferred from Southern to Prestonsburg. That value was a little over \$4M, which supported the Agreement entered into by the two Districts.
3. The other two items I was contracted to opine on, was the viability of each District after the transfer.
4. I completed Prestonsburg based on the financials provided to me, and opined they were viable after the transfer.
5. I completed Southern from the PSC increase of \$953,410 in Revenues or 33.12% increase in rates.
6. Looking at the 2017 audit, it confirms my viability opinion as follows:
 - a. Net Assets of \$18M.
 - b. Net Loss before Rate increase of \$146,017.
 - c. Depreciation was \$1M of the \$146,017 loss.
 - d. Net Cash provided by operating activities was over \$400,000 before the Revenue/Rate increase.
 - e. Footnote 5 estimated the loss of revenue to be under \$500,000 yearly, whereas the increase in Revenue per the PSC is \$953,410.
 - f. The Auditor is required to determine if there is a Going Concern issue with the District, he did not determine there was an issue.
 - g. The PSC sent personnel in to evaluate Southern's required revenue to be viable, and determined an increase greater than the District requested. From reading their report and having experience with their objectives/policies, I am satisfied the increase was sufficient to ensure the District was a Going Concern and viable.
7. It is my understanding there is still an amount that Prestonsburg owes Southern to complete the contract, it is only contingent on how those funds are to be used against what debt or outright.

I have completed my report without interference from either District and with sufficient information including Third Party support from a very reliable source. I only met Ed for a "Site Visit" and tour of the assets transferred. Otherwise he provided the information I needed for the viability for his District. I only talked to Judge Executive Ben Hale and District Manager Dean Hall about the site visit and applicable Revenue stream. Neither of the parties tried to persuade me in the value of the transferred Revenue and associated Assets.

So my engagement is complete. I will be glad to meet with either party or both together, but it would be under a separate engagement as described in my Engagement Letter and subject to a new Retainer. Also, the purpose of the meeting would need to be identified and agreed upon.

Thanks,

Terry

From: Dean Hall [REDACTED]
Sent: Tuesday, November 20, 2018 11:26 AM
To: Terry Fyffe
Subject: Re: Meeting??

Terry Fyffe

From: Terry Fyffe
Sent: Wednesday, December 12, 2018 12:51 PM
To: [REDACTED]
Cc: Terry Fyffe
Subject: Prestonsburg City Utility Project

I have not heard from Dean concerning a new engagement, so unless you have an update for me I will be closing our engagement out. Thanks for your help.

Terry R. Fyffe, CPA, ABV
2155 Carter Avenue
P.O. Box 2245
Ashland, Kentucky 41105-2245
Phone: 606-329-8604
Fax: 606-324-2823
[REDACTED]

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The Fyffe Jones Group

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JAN 28 2019

PUBLIC SERVICE
COMMISSION

Southern Water & Sewer District to Prestonsburg City's Utilities Asset Transfer

The transaction involves all of the **wastewater** assets (including the Wayland and Eastern collection and treatment areas/facilities). **In addition**, the transaction includes the potable water distribution areas of Betsy Layne and Harold (the Floyd County portions of the old Sandy Valley Water District) and the Pyramid area located along KY Route 850 near David just outside Prestonsburg. The Betsy Layne/Harold area serves approximately 1,050 potable water customers and the Pyramid area serves approximately 125 potable water customers. Both of these areas are situated at remote points of the Southern Water service area. In contrast both of the areas are advantageously contiguous with the distribution service area of Prestonsburg City Utilities Commission. Since Southern could not supply the potable water to the Betsy Layne/Harold area from its own treatment/distribution system the water for this area has been supplied by Prestonsburg and Pikeville. Furthermore, in the event that Southern could not supply the potable water customers in the Pyramid area Prestonsburg served them from its system. The approximately 1,175 potable water customers represented only an estimated eighteen percent (18%) of the nearly 6,700 potable water customers of Southern.

Southern obtained the 1,050 potable water customers of the old Sandy Valley Water District via a sale of the Sandy Valley Water District to the city of Pikeville and Southern Water approved by the Kentucky Public Service Commission by their order issued on January 22, 2007. Southern acquired the Sandy Valley potable water customers located in Floyd County (Betsy Layne/Harold) and the city of Pikeville acquired the Sandy Valley potable water customers located in Pike County. At the time of the sale USDA/Rural Development held bonds and notes pertaining to the Sandy Valley Water District. This indebtedness totaled \$1,392,444 and was allocated to each group of customers utilizing a formula based upon the percentage of Sandy Valley Water district's total revenues from retail customers in Floyd and Pike Counties. This resulted in Southern being allocated forty three percent (43%) of the USDA/Rural Development debt or approximately \$598,750 of liability. This debt was the **only** debt attributable to the old Sandy Valley Water District potable water customers involved in the current transfer between Southern and Prestonsburg. The debt had been reduced by payments from Southern over the last decade to \$485,078.64. This amount was paid by Prestonsburg to USDA/Rural Development on August 2, 2017 via check number [REDACTED]. Southern had capitalized the acquisition of these customers and assets at \$542,732.45 as of June 1, 2007. By December 31, 2016 the book value of the potable water assets was \$435,449.86 after depreciation. In essence Prestonsburg City Utilities Commission paid off the **only** USDA/RD bond issue held against the assets being transferred and paid substantially more than the book value of the infrastructure itself. The asset book value for the infrastructure and potable water customers in the Pyramid/KY Route 850 could not be determined from Southern's asset listing.

Over two years ago the respective staff members and boards of Southern Water and Prestonsburg City Utilities Commission worked out the details of the financial package attributable to the wastewater and potable water asset transfer from Southern to Prestonsburg. The \$2,139,715.06 package was made up

of loan/bond payoffs, a loan assumption, and various cash payments to Southern. Of this total, \$1,232,421.64 was/is attributable to the potable water assets and a figure more than twice the book value of those Southern assets. The age of both potable water infrastructure areas being transferred is nearly fifty (50) years and aging.

In addition to the aforementioned financial package the two entities initially agreed to pay off a nearly \$2,000,000.00 loan owed by the Floyd County Fiscal Court for funding utilized nearly a decade ago to improve certain areas of the infrastructure of Southern and to extend potable water infrastructure to several areas in southern Floyd County. This additional financial component brought the total consideration to be paid by Prestonsburg City's Utilities Commission either directly to or on behalf of Southern Water & Sewer District to approximately \$4,139,715.06.

Funds to be paid to Southern directly or via loan/bond payoffs and assumptions	\$2,139,715.06
Floyd County Fiscal Court loan	<u>2,000,000.00</u>
Total Consideration	\$4,139,715.06

Note: The two entities have now tentatively agreed that rather than paying off the Floyd County Fiscal Court loan it would be much more beneficial to Southern Water & Sewer District if those funds could be paid directly into Southern to be utilized for infrastructure improvements and possible debt reduction. Prestonsburg holds \$1,865,166.25 in its bank account for this purpose.

Note: No USDA/Rural Development approval was necessary in order for the ownership of the wastewater assets of Southern to be transferred to Prestonsburg hence that transaction took place on June 28, 2018. Attached is detailed summary of the \$2,139,715.06, the total "cash outlay" portion from Prestonsburg to Southern. In addition summaries of this nature are attached broken down between the wastewater and potable water assets.

Prestonsburg City Utilities Commission

Detail of the Financial Package to Be Paid to and on behalf of Southern Water

Water and Wastewater Assets

Bond Payoff

USDA/RD No. 91-05	\$ 485,078.64	\$ 485,078.64
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Long Term Loans

KIA Loan No. A04-06	\$ 30,588.00	
KIA Loan No. A11-16	<u>\$ 660,525.00</u>	\$ 691,113.00

Earnest Money (Downpayment) Expended

Purchase of Three New Trucks	\$ 115,000.00	
Billing Software and Computers	\$ 34,260.00	
Billing Software Final	\$ 13,083.00	
Advance to Southern Water - (FEMA Project)	\$ 100,000.00	
Installment Payments to Southern to date	\$ 485,000.00	\$ 747,343.00

Wayland WW Plant and Lift Stations	<u>\$ 145,000.00</u>	\$ 145,000.00
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O&M Agreement 07/01/16 thru 06/30/17		\$ 36,000.00
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Cash Paid to Southern at Closing 6/28/2018		<u>\$ 35,180.42</u>
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Total Funds to Pertaining to the Acquisition		<u><u>\$ 2,139,715.06</u></u>
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Prestonsburg City Utilities Commission

Detail of the Financial Package to Be Paid to and on behalf of Southern Water

Wastewater Assets

Long Term Loans

KIA Loan No. A04-06	\$ 30,588.00	
KIA Loan No. A11-16	<u>\$ 660,525.00</u>	\$ 691,113.00
O&M Agreement 07/01/16 thru 06/30/17		\$ 36,000.00
Rehab of Wayland/Eastern Wastewater Plants & Systems		\$ 145,000.00
Cash Paid to Southern at Closing 6/28/2018		<u>\$ 35,180.42</u>
Total Funds to Pertaining to the Acquisition		<u><u>\$ 907,293.42</u></u>

NOTE: Wastewater Asset transfer has been approved by USDA/Rural Development

Prestonsburg City Utilities Commission

Detail of the Financial Package to Be Paid to and on behalf of Southern Water

Water Assets

Bond Payoff

USDA/RD No. 91-05	\$ 485,078.64	\$ 485,078.64
(Attributable to the Old Sandy Valley Water Assets on US23)		

Earnest Money (Downpayment) Expended

Purchase of Three New Trucks	\$ 115,000.00	
Billing Software and Computers	\$ 34,260.00	
Billing Software Final	\$ 13,083.00	
Advance to Southern Water - (FEMA Project)	\$ 100,000.00	
Installment Payments to Southern to date	<u>\$ 485,000.00</u>	<u>\$ 747,343.00</u>

Total Funds to Pertaining to the Acquisition		<u><u>\$ 1,232,421.64</u></u>
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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "Agreement"), effective January 1, 2017, made and entered between **SOUTHERN WATER AND SEWER DISTRICT** (the "Southern District"), P.O. Box 610, McDowell, Kentucky 41647; **PRESTONSBURG CITY'S UTILITY COMMISSION** (the "PCUC"), 2560 South Lake Drive, Prestonsburg, Kentucky 41653; and the **CITY OF PRESTONSBURG** (the "City"), 200 North Lake Drive, Prestonsburg, Kentucky 41653, (collectively, the "Parties").

WITNESSETH:

WHEREAS, Southern District is a water district organized under the provisions of KRS Chapter 74;

WHEREAS, Southern District currently owns and operates water supply, treatment, and distribution facilities (the "Southern Water System") and wastewater collection and treatment facilities (the "Southern Wastewater System");

WHEREAS, PCUC is a duly organized and existing independent, component unit and agency of the City;

WHEREAS, the City currently owns, and PCUC manages and operates, water supply, treatment, and distribution facilities (the "PCUC Water System") and wastewater collection and treatment facilities (the "PCUC Wastewater System");

WHEREAS, the City has the sole authority to issue or assume debt on behalf of PCUC and its operations;

WHEREAS, certain PCUC Water System facilities are adjacent to Southern Water System facilities and certain PCUC Wastewater System facilities are adjacent to certain Southern Wastewater System facilities;

WHEREAS, Southern District is subject to administrative actions by the Division of Enforcement of the Kentucky Energy and Environment Cabinet (the “DOE”) for alleged violations of Kentucky water quality laws;

WHEREAS, the actions necessary to bring Southern Wastewater System’s facilities into compliance with Kentucky water quality laws are expected to cost hundreds of thousands of dollars;

WHEREAS, Southern District is facing substantial civil penalties for its alleged violations of Kentucky water quality laws;

WHEREAS, PCUC has a larger and more experienced workforce devoted to its wastewater operations than Southern District has for its wastewater operations;

WHEREAS, PCUC has a greater number of Wastewater Treatment Plant Certified Operators than Southern District;

WHEREAS, PCUC has greater financial resources than Southern District;

WHEREAS, since July 1, 2016, PCUC has been managing, operating, repairing, and maintaining the Southern Wastewater System pursuant to an Operating Agreement executed by PCUC and Southern District;

WHEREAS, since assuming responsibility for the management, operation, repair, and maintenance of the Southern Wastewater System, and in anticipation of administrative orders from DOE to remedy deficiencies in the Southern Wastewater System, PCUC has commenced, at its own expense, the rehabilitation of the Wayland Wastewater Treatment Plant and lift stations, and has made repairs to the Harold Wastewater Treatment Plant and the Eastern Wastewater Treatment Plant;

WHEREAS, the combination and consolidation of the Southern Wastewater System and the PCUC Wastewater System will result in greater economies of scale, enhance the reliability and quality of wastewater service presently provided to the customers of the Southern Wastewater System, substantially reduce the likelihood of the DOE's assessment of civil penalties against the Southern Wastewater System, and allow the combined wastewater systems to be managed, operated, and maintained in a more cost effective manner;

WHEREAS, that portion of the Southern Water System located along Kentucky Route 850 from the point where Southern currently interconnects with

PCUC near Kentucky Route 404 to the summit of the hill on Kentucky Route 850 (the "Pyramid Area") is a remote portion of the Southern Water System;

WHEREAS, that portion of Southern Water Distribution System located along U.S. Highway 23 from Mare Creek at Stanville south to the Pike County line, including the areas east of U.S. Highway 23 and the areas west of U.S. Highway 23 known as Justell and Harold Bottom, is also a remote portion of the Southern Water System;

WHEREAS, PCUC can more easily provide adequate and reliable water service to the Pyramid Area and the Stanville/Betsy Layne/Harold Area than can be provided by Southern;

WHEREAS, the transfer of those portions of the Southern Water System that serve the Pyramid Area and the Stanville/Betsy Layne/Harold Area from Southern District to the City, for the use and benefit of PCUC, will result in greater economies of scale, enhance the reliability and quality of water service to the customers served by those facilities, and allow the combined systems to be managed, operated, and maintained in a more cost effective manner;

WHEREAS, the City and PCUC have the financial, technical, and managerial abilities to provide adequate and reliable water and wastewater service to Southern District's existing customers that will be transferred to PCUC without

adversely affecting the quality of service presently afforded PCUC's existing customers;

WHEREAS, the City has the authority, pursuant to KRS Chapters 82, 96, and 106 and other applicable laws, to acquire, for the use and benefit of PCUC, the Southern Wastewater System and portions of the Southern Water System; and

WHEREAS, the transfer of the Southern Wastewater System and portions of the Southern Water System will improve Southern District's financial position and will enable Southern District to focus its efforts on maintaining and improving the quality and reliability of service to the remaining portion of the Southern Water System.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions contained herein, the Parties agree as follows:

1. **TRANSFER OF CERTAIN ASSETS.** Subject to the terms and conditions of this Agreement, Southern District hereby agrees to transfer and convey to the City, for the use and benefit of PCUC, and the City and PCUC hereby agree to acquire from Southern District, those assets described in Paragraphs 2, 3, and 9 of this Agreement (the "Assets") for the consideration set forth in Paragraph 4 of this Agreement.

2. **WASTEWATER SYSTEM ASSETS BEING TRANSFERRED.**
At the Closing, Southern District shall transfer to the City, for the use and benefit

of PCUC, the Southern Wastewater System in its entirety. The wastewater assets being transferred to PCUC include, but are not limited to, the following:

A. **Harold Wastewater Treatment Plant.** The in-ground, concrete basin, extended air wastewater treatment facility with a rated daily treatment capacity of 100,000 gallons and designated as the Harold Wastewater Treatment Plant (the "Harold WWTP"), the tract of real property upon which the facility is situated, and all improvements to the facility and the property on which it is situated;

B. **Harold/Betsy Layne Wastewater Collection System.** The wastewater collection system designated as the Harold/Betsy Layne Wastewater Collection System, including, but not limited to, all sewer gravity lines, all sewer force mains, all manholes, all lateral lines, all grinder pumps, all other pumps and controls, valve vaults, valves, and any and all other facilities and appurtenances used in the operation of the Harold/Betsy Layne Wastewater Collection System;

C. **Eastern Wastewater Treatment System.** The in-ground, concrete basin, extended air wastewater treatment facility with a rated daily treatment capacity of 25,000 gallons and designated as the Eastern Wastewater Treatment Plant (the "Eastern WWTP"),

the tract of real property upon which the facility is situated, and all improvements to the facility and the property on which it is situated;

D. Eastern Wastewater Collection System. The wastewater collection system designated as the Eastern Wastewater Collection System, including, but not limited to, all sewer gravity lines, all sewer force mains, all manholes, all lateral lines, all grinder pumps, all other pumps and controls, valve vaults, valves, and any and all other facilities and appurtenances used in the operation of the Eastern Wastewater Collection System;

E. Wayland Wastewater Treatment Plant. The above ground, steel basin, extended air wastewater treatment facility with a rated daily treatment capacity of 100,000 gallons and designated as the Wayland Wastewater Treatment Plant (the "Wayland WWTP"), the tract of real property upon which the facility is situated, and all improvements to the facility and the property on which it is situated;

F. Wayland Wastewater Collection System. The wastewater collection system designated as the Wayland Wastewater Collection System, including, but not limited to, all sewer gravity lines, all sewer force mains, all manholes, all lateral lines, all grinder pumps, all other pumps and controls, valve vaults, valves, and any and

all other facilities and appurtenances used in the operation of the Wayland Wastewater Collection System;

G. **Sewer Lift Stations.** All sewer lift stations, including the pumps and related appurtenances, used in the operation of the Harold/Betsy Layne Wastewater Collection System and Wayland Wastewater Collection System. **Exhibit 1** to this Agreement lists and describes each of these sewer lift stations and identifies its location;

H. **Real Property.** All of Southern District's rights and interests in the parcels or tracts of real property on which the wastewater system assets described above are located;

I. All other real estate easements and the improvements thereon, licenses, encroachment permits, rights-of-way, or other interests in real estate owned by Southern District and used in the operation of the Southern Wastewater System;

J. All maps, drawings, operating manuals, engineering reports, and "As Built" plans pertaining to the Southern Wastewater System;

K. All business records pertaining to the Southern Wastewater System, including, but not limited to, all customer records and agreements; and

L. Any and all other tangible and intangible rights, permits, licenses, or authorizations owned by Southern District and used in the operation of the Southern Wastewater System.

3. **WATER SYSTEM ASSETS BEING TRANSFERRED.** At the Closing, Southern District shall transfer to PCUC those portions of the Southern Water System that serve the Pyramid and Stanville/Betsy Layne/Harold Areas. The water system assets being transferred to PCUC include, but are not limited to, the following:

A. **Sandy Valley Water District Distribution System.** The entire water distribution system formerly known as the Floyd County portion of the Sandy Valley Water District, including, but not limited to, approximately 4.5 miles of 12-inch asbestos concrete water transmission main, approximately 5.8 miles of 3-inch to 8-inch water distribution lines of various composition (asbestos concrete, polyvinylchloride, or polyethylene), system valves, meter vaults, meters, fire hydrants, flush hydrants, and tap installations;

B. **Stanville Tank.** The 150,000 gallon water storage tank designated as the Stanville Tank, which is located at the junction of U.S. Highway 23 South and Mare Creek Road at Stanville, all of Southern District's rights and interests in the real property upon which the tank is

situated, valve vault, altitude valve, and all appurtenances associated therewith;

C. **Eagle Trace Tank.** The 150,000 gallon water storage tank designated as the Eagle Trace Tank, which is located at the head of the Right Fork of Penhook Branch in Harold just off U.S. Highway 23 South, all of Southern District's rights and interests in the property upon which the tank is situated, valve vault, altitude valve, and all appurtenances associated therewith;

D. **Mare Creek Road Booster Station.** The water booster station located on Mare Creek Road in Stanville, including the pump and all other appurtenances associated therewith;

E. **Pike-Floyd Hollow Road Booster Station.** The water booster station located on Pike-Floyd Hollow Road in Betsy Layne, including the pump and all other appurtenances associated therewith;

F. **Pyramid Distribution System.** The water distribution system serving the area in Floyd County that is known as Pyramid, and that is more specifically defined as the service area from the junction of Kentucky Routes 404 and 850 south along Kentucky Route 850 to the top of Hippo Hill, including, but not limited to, approximately 4.6 miles of 6-inch polyvinylchloride water transmission main, approximately 4.1 miles of 2-

inch to 6-inch polyvinylchloride or polyethylene water distribution lines, system valves, meter vaults, meters, fire hydrants, flush hydrants, and tap installations;

G. **Hippo Hill Tank.** The 125,000 gallon storage tank designated as the Hippo Hill Tank, which is located on Kentucky Route 850, all of Southern District's rights and interests in the property upon which the tank is situated, valve vault, altitude valve, and all appurtenances associated therewith;

H. **Real Property.** All of Southern District's rights and interests in the parcels or tracts of real property on which the water system assets described above are located;

I. All real estate easements and the improvements thereon, licenses, encroachment permits, rights-of-way or other interests in real estate owned by Southern District and used in the operation of the portions of the Southern Water System that serve the Pyramid and Stanville/Betsy Layne/Harold Areas;

J. All maps, drawings, operating manuals, engineering reports, and "As Built" plans pertaining to the portions of the Southern Water System that serve the Pyramid and Stanville/Betsy Layne/Harold Areas;

K. All business records pertaining to the portions of the Southern Water System that serve the Pyramid and Stanville/Betsy Layne/Harold Areas, including, but not limited to, all customer records and agreements; and

L. Any and all other tangible and intangible rights, permits, licenses, or authorizations owned by Southern District and used in the operation of the portions of the Southern Water System that serve the Pyramid and Stanville/Betsy Layne/Harold Areas.

4. **CONSIDERATION.** As consideration for the transfer of the Assets, the City and PCUC shall pay to Southern District **\$2,140,000.00** (the "Purchase Price"). The City and PCUC shall pay the consideration by a combination of cash payments to Southern District, the assumption or payment of certain debt obligations owed by Southern District, and expenditures incurred for the rehabilitation of the Wayland WWTP and sewer lift stations, Harold WWTP, and Eastern WWTP. PCUC has already made a series of payments totaling **\$149,260.00** to Southern District as a down payment on the purchase price. City and PCUC shall either assume or pay in full at the Closing, the following debt obligations of Southern District: (a) KIA Loan No. A04-06 in the approximate principal amount of \$34,019, which was incurred for the Wayland WWTP; (b) KIA Loan No. A11-16 in the approximate principal amount of \$696,000, which

was incurred for the Harold WWTP; and (c) USDA-RD Loan No. 91-05 in the approximate principal amount of \$512,990, which was originally incurred by the Sandy Valley Water District and later assumed by Southern District.

5. **CUSTOMER DEPOSITS.** Southern District represents that it is holding customer deposits for its customers who receive water or sewer service through the Assets listed in Paragraphs 2 and 3 of this Agreement. Prior to Closing, Southern District shall furnish PCUC a current list that shows the name, address, account number, and amount still on deposit for each of these customers. Southern District shall be responsible for paying, or crediting the customer's accounts, all accrued interest on the customer deposits through the date of Closing. After the Closing, PCUC shall be responsible for the refund of these deposits in accordance with PCUC's rules and regulations.

6. **LIABILITIES EXCLUDED.** PCUC is not assuming any Southern District liabilities or debts except for the loans described in Paragraph 4 and the customer deposits described in Paragraph 5 of this Agreement.

7. **CONSTRUCTION WORK IN PROGRESS.** Southern District is currently constructing sewer facilities in southern Floyd County along the U.S. Highway 23 Corridor to extend pressure sewer service to the areas of Lower Hollow, Store Hollow, and portions of Betsy Layne Bottom. This construction, which is known as Harold Sewer Project Phase 3 (the "Harold Phase 3 Project" or

the “Project”), consists of the installation of: approximately 136 Simplex E-1 Grinder Pump Stations; approximately 16,492 feet of 1.25-inch High Density Polyethylene (the “HDPE”) main; approximately 3,220 feet of 2-inch HDPE main; approximately 5,162 feet of 3-inch HDPE main; approximately 3,442 feet of 4-inch HDPE main; approximately 3,442 feet of 6-inch HDPE main; and approximately 199 feet of 10-inch HDPE Force Main. It is anticipated that the construction contract will be substantially completed and the wastewater collection lines will be placed into service prior to the Closing. Upon completion of the Project or the Closing, whichever occurs later, Southern District shall assign the contractor’s warranty to PCUC. In addition, Southern District shall require the contractor to provide the usual and customary Certificate of Payment certifying that the contractor has been paid in full and that all subcontractors and material providers have been paid in full. Southern District shall be responsible for making any and all remaining payments owed to the contractor and to Summit Engineering.

8. **GRANT COMPLIANCE.** Southern District is the recipient of the following grants in the following amounts: Community Development Block Grant (\$750,000); Appalachian Regional Commission (\$390,000); and Kentucky General Assembly (HB 265) Grant (\$273,000) (the “Grants”). The proceeds of the Grants shall be used to pay the costs of constructing the Project. To facilitate final

closeout of the Grants, Southern District shall be responsible for maintaining all files, books, and records regarding the Grants and the use of Grant proceeds and PCUC shall be responsible for ongoing compliance.

9. **HAROLD PHASE 3 IMPROVEMENTS.** Upon completion of the Harold Phase 3 Project or the Closing, whichever occurs later, Southern District shall transfer all the wastewater improvements installed as part of the Harold Phase 3 Project to the City for the use and benefit of PCUC.

10. **REGULATORY AGENCY APPROVALS.** PCUC shall be responsible for the following: (a) obtaining all necessary approvals from regulatory agencies, including the Kentucky Public Service Commission (the "PSC") and the Kentucky Division of Water; (b) obtaining the transfer of Kentucky Pollutant Discharge Elimination System Permits; (c) obtaining the transfer of all other necessary permits and licenses from Southern District to PCUC; and (d) taking other necessary actions to facilitate the transfer of the Southern Wastewater System and designated portions of the Southern Water System to the City for the use and benefit of PCUC. PCUC shall initiate all proceedings to obtain these necessary approvals and transfers. Southern District pledges its full cooperation and assistance to expedite these matters and ensure a smooth transition.

11. **WATER RATES.** The schedule of Southern District's current rates for monthly water service is attached as **Exhibit 2**. The City and PCUC agree that

following the Closing, PCUC shall charge these rates to persons in the Pyramid and Stanville/Betsy Layne/Harold Areas for water service and shall **not** increase these rates for at least three (3) years following the date of the Closing.

12. **WASTEWATER RATES.** The schedule of Southern District's current rates for monthly wastewater service is attached as **Exhibit 3**. The City and PCUC agree that following the Closing, PCUC shall charge these rates to persons in the areas currently served by the Southern Wastewater System and shall **not** increase these wastewater rates for at least three (3) years following the date of the Closing.

13. **DOE ADMINISTRATIVE ACTIONS.** Southern District is facing administrative actions by DOE for alleged violations of Kentucky water quality laws. To mitigate or eliminate any civil penalties that might be imposed by DOE, PCUC has been managing, operating, repairing, and maintaining the Southern Wastewater System since July 1, 2016. Southern District and PCUC believe the rehabilitation of the Wayland WWTP and other actions taken by PCUC have been viewed very favorably by DOE. PCUC pledges to continue working closely with Southern District and DOE to persuade DOE to resolve this matter without taking any more enforcement actions or seeking any civil penalties. Nevertheless, should DOE impose or assess any civil penalties for alleged violations that occurred prior

to July 1, 2016, Southern District shall be solely responsible for the payment of those penalties.

14. **CONTINUED OPERATION OF WATER SYSTEM.** Until the time of the Closing, Southern District shall continue to operate and maintain the portions of the Southern Water System that serve the Pyramid and Stanville/Betsy Layne/Harold Areas in substantially the same manner as it has previously been operated and maintained. Immediately following the Closing, PCUC shall commence operating and maintaining the Water and Wastewater Systems.

15. **REPRESENTATIONS AND WARRANTIES OF SOUTHERN DISTRICT.** Southern District represents and warrants to PCUC as follows:

- A. That it is a duly organized and existing water district.
- B. That the execution and delivery of this Agreement and the consummation of the transactions herein contemplated have been duly authorized by its Board of Commissioners.
- C. That its current rates for water service are set forth in **Exhibit 2.**
- D. That its current rates for wastewater service are set forth in **Exhibit 3.**
- E. The execution, delivery, performance, and the consummation of the transactions contemplated in this Agreement do

not and will not: (1) conflict with or result in a violation or breach of any of the terms, conditions, or provisions of or constitute a default of any instrument, agreement, mortgage, judgment, order, writ, award, decree, or other restriction to which either Southern District is a Party, or to which any of Southern District's Assets are subject, or by which Southern District is bound or any statute or regulatory provision affecting Southern District; (2) require the approval, consent, or authorization of any federal, state, or local court, governmental authority, or regulatory body or of any creditor of Southern District or of any other person or entity, except for Rural Development, the Kentucky Infrastructure Authority, the PSC, and the Kentucky Division of Water; nor (3) give any Party with rights under any instrument, agreement, mortgage, judgment, order, writ, award, decree or other restriction the right to terminate, modify, or otherwise change Southern District's rights or obligations thereunder.

F. Southern District has complied with all existing laws, rules, regulations, ordinances, orders, judgments, and decrees now or hereafter applicable to Southern District's Assets. Southern District is not aware of any proposed laws, rules, regulations, ordinances, orders, judgments, decrees, governmental takings, condemnations, or other

proceedings which would be applicable to Southern District's Assets or which might adversely affect Southern District's Assets either before or after the date of this Agreement.

G. Except as noted in Paragraph 13 of this Agreement, Southern District has not received any notice or notification from any court or governmental agency, authority, or body that it is in violation of, or not in compliance with, any federal, state, or local law, statute, ordinance, rule, regulation, decree, order, or permit relating to its utility business or that upon the passage of time it will be in violation of any of the foregoing. Southern District's operation of its utility business complies in all respects with all governmental requirements relating to the collection, treatment and disposal of wastewater.

H. Southern District is the true and lawful owner of the Assets and has good, marketable, and insurable title to all of the Assets. None of the Assets will, after Closing, be subject to any mortgage, pledge, lien, charge, security interest, encumbrance, restriction, lease, license, easement, liability or adverse claim of any nature whatsoever, direct or indirect, whether accrued, absolute, contingent or otherwise, except for certain property interests (the "Property Interests") acquired by Floyd County, Floyd County Fiscal

Court, and the Floyd County, Kentucky Public Properties Corporation (the "Floyd County") as a result of past financing arrangements between Floyd County and Southern District. The City and PCUC are aware of these Property Interests. Southern District acknowledges that the City and PCUC are engaged in discussions with Floyd County officials to acquire these Property Interests. All of the Assets are in operating condition and are suitable for the purposes used.

I. Upon execution and delivery of the necessary deeds, bills of sale, easements, assignments, and other instruments of transfer by Southern District pursuant to this Agreement, PCUC shall acquire good and valid title to the Assets, free and clear of all claims, liens, security interests, agreements, restrictions, charges and encumbrances of any nature whatsoever.

J. No other person or entity, except for PCUC, now has, nor at any time prior to the Closing will have, the right to purchase, own, use, or sell any of the Assets.

K. Southern District is not insolvent as of the date of this Agreement. Southern District is able to meet all business obligations as they become due and will not be insolvent or unable to meet its

business obligations as a result of completing the transactions described herein.

L. Except as noted in this Agreement, there is no claim, legal action, suit, arbitration, governmental investigation, or other legal or administrative proceeding, nor any order, decree or judgment in progress, pending or in effect, or threatened, against or relating to the Southern District, its officers, commissioners, employees or utility business, the Assets, or the transactions contemplated by this Agreement, and Southern District neither knows nor has reason to be aware of any basis for the same.

M. Between the date of this Agreement and the Closing, Southern District shall operate its Water System diligently and substantially in the same manner as heretofore conducted prior to the date of this Agreement. Prior to the Closing, the Southern District shall not, without PCUC's prior written approval, change its rates or charges, institute any new methods of accounting or operation, or engage in any transaction or activity, enter into any agreement, or make any commitment, except in the ordinary course of business and consistent with past practice.

N. Prior to the Closing, the Southern District shall not permit any of the Assets to be subjected to a mortgage, pledge, lien or encumbrance, without notice to, and approval of, PCUC, and further shall not dispose of any of the Assets.

O. Southern District shall maintain until the Closing the insurance policies presently in effect on the Assets.

P. Southern District shall not perform any act or omit to perform any act or perform any act or omission that will cause a breach or default in this Agreement.

Q. No representation or warranty by Southern District in this Agreement, nor any statement or certificate furnished or to be furnished by it to PCUC or its representatives in connection herewith or pursuant hereto, contains or will contain any untrue statement of material fact or will omit a statement of any material fact required to make the statements herein or therein contained not misleading. Southern District has disclosed to PCUC in writing all material adverse facts known to it relating to the Southern District, its utility business, or the Assets. Southern District is not aware of any circumstances or facts which could be detrimental to its utility business other than those disclosed to PCUC in writing.

R. All minute books, books and records, and other documents maintained by Southern District with respect to the Assets are true, complete, and accurate.

S. All representations and warranties of Southern District contained in this Agreement or in any certificate or other writing delivered pursuant hereto or in connection herewith shall be true as of the Closing as well as of the date of this Agreement.

16. PCUC'S REPRESENTATIONS AND WARRANTIES. PCUC represents and warrants to Southern District as follows:

A. PCUC is a duly organized and validly existing independent component unit and agency of the City. It has the requisite right, power, and authority: (1) to carry on its utility business as it is now being conducted; and (2) to manage and operate the facilities which it currently manages and operates.

B. PCUC has full capacity, right, power, and authority to enter into, deliver, and perform this Agreement. This Agreement has been approved by its Board of Commissioners and the Prestonsburg City Council. All other consents, approvals, authorizations, or other requirements prescribed by law, rule, or regulation which must be obtained or satisfied by PCUC and which are necessary in order for it

to enter into and perform this Agreement have been satisfied. This Agreement has been duly executed and delivered by PCUC and constitutes a legal, valid, and binding obligation, enforceable against it in accordance with its terms.

C. It has the financial, technical, and managerial abilities to provide reasonable water service and wastewater collection and treatment services to the customers of the Southern Wastewater System and the designated portions of the Southern Water System to be transferred to PCUC.

17. **CITY'S REPRESENTATIONS AND WARRANTIES.** The City represents to Southern District:

A. The City is a duly organized and validly existing municipal corporation and city of the home rule class of the Commonwealth of Kentucky.

B. This Agreement has been approved by its City Council. All other consents, approvals, authorizations, or other requirements prescribed by law, rule, or regulation which must be obtained or satisfied by the City or PCUC and which are necessary in order for it to enter into and perform this Agreement have been satisfied. This Agreement has been duly executed and delivered by the City and

constitutes a legal, valid, and binding obligation, enforceable against it in accordance with its terms.

C. It has the financial, technical, and managerial abilities to provide reasonable water service and wastewater collection and treatment services to the customers of the Southern Wastewater System and the designated portions of the Southern Water System to be transferred to the City for the use and benefit of PCUC.

18. **CLOSING.** The closing of this transaction (the "Closing") shall take place at a mutually convenient date, time, and place.

19. **ACCESS TO BOOKS.** Between the date of this Agreement and the Closing, PCUC and the City and their authorized representatives shall have the right to examine and to obtain copies of any and all pertinent books, plats, maps, plans, and records of Southern District upon reasonable notice and mutually convenient times.

20. **FINAL BILLING.** No later than two (2) weeks prior to the Closing, Southern District shall provide PCUC with a current list of all names, addresses, meter identification numbers, and account numbers of Southern District's water and wastewater customers that are being transferred to PCUC. At Closing, Southern District shall also provide PCUC with the last meter reading for each customer. Southern District shall bill all its customers for water and wastewater

services rendered prior to the Closing. Southern District shall be entitled to all revenue derived from the final bill it sends its customers. PCUC shall be entitled to all revenue derived from water and wastewater services rendered on and after the date of the Closing.

21. **CLOSING REQUIREMENTS.** The obligations of the Parties are expressly conditioned on the following, each of which is a condition precedent to the validity and enforcement of this Agreement:

A. The representations and warranties of each of the Parties shall be true and correct as of the Closing, as though such representations and warranties were made at, and as of the Closing;

B. Each of the Parties shall have performed and complied in all material respects with all of its obligations under this Agreement that are due to be performed or complied with by such Party prior to or at the Closing;

C. At and as of the Closing, no litigation, proceedings, investigations, or inquiries shall be pending or threatened by any person, firm, corporation, government agency, or governmental official to enjoin or prevent the consummation of this transaction;

D. The PSC shall have entered an order in which it approves the transfer of the Wastewater Assets and Water Assets from Southern

District to the City, for the use and benefit of PCUC, without the addition of any requirement or condition which the City or PCUC deems objectionable;

E. USDA-Rural Development shall have either issued a Letter of Conditions to the City authorizing USDA-RD Loan No. 91-05, which is owed by Southern District, to be assumed by the City or granted written approval for Southern District to convey the Assets to the City upon payment in full of Loan No. 91-05; and

F. Kentucky Infrastructure Authority shall have given written approval for KIA Loan No. A04-06 and KIA Loan No. A11-16, which are owed by Southern District, to be assumed by the City.

22. CONVEYANCE AND TRANSFERS. Southern District shall not convey, lease, or in any other way dispose of the Wastewater Assets or the Water Assets until the Closing. At the Closing, Southern District shall execute and deliver to PCUC and the City such leases, deeds, assignments, bills of sale, and other instruments of transfer as are necessary or requested by PCUC and the City to vest PCUC and the City with good and marketable, unencumbered title to the Wastewater Assets and the Water Assets, without the need for further approval or consent by any other person or entity.

23. DUE AT CLOSING.

A. DUE FROM SOUTHERN DISTRICT TO PCUC.

Unless PCUC provides a written waiver of any item listed herein, Southern District shall deliver to PCUC at Closing the following:

- (1) General warranty deeds and an Assignment of Easements conveying Southern District's ownership interests in the real property described in Paragraphs 2 and 3 of this Agreement;
- (2) Such bills of sale, assignments and other instruments of transfer, all dated the Closing Date, as shall be necessary or requested by PCUC to vest PCUC with good and marketable, unencumbered title to the Assets;
- (3) A schedule which contains a current listing of the name, address, account number, meter identification number, meter reading, and amount still on deposit for each customer;
- (4) Duly certified copy of the resolution of the Board of Commissioners authorizing the execution, delivery and performance of this Agreement by Southern District, which ordinance shall be in full force and effect at, and as of, the Closing;
- (5) An opinion from Southern District's counsel, dated the Closing Date and in a form satisfactory to PCUC and the City, as to the representations, warranties, and other matters set forth in Paragraph 15 of this Agreement;
- (6) A certificate, signed by Southern District's Chairperson and dated as of the Closing Date, representing and warranting to the PCUC (i) that the representations, warranties and other matters set forth in Paragraph 15 of this Agreement are true and correct as of the Closing, as though such representations and warranties were made at, and as of, the Closing, and (ii) that the Closing

Requirements set forth in Paragraph 21 of this Agreement have been fully satisfied;

- (7) All records for the utility customers;
- (8) Possession of the Assets;
- (9) A list of any Pre-paid Connection Fees and a certified or cashier's check for the amount of any Pre-paid Connection Fees held by the Southern District;
- (10) An assignment of the contractor's warranty on the construction contract referred to in Paragraph 7 of this Agreement; and
- (11) Such other documents as may be necessary to effectuate the transactions contemplated by this Agreement.

B. DUE FROM PCUC TO SOUTHERN DISTRICT.

Unless Southern District provides a written waiver of any item listed herein, PCUC shall deliver to Southern District at Closing the following:

- (1) A certified or cashier's check for the balance of the Purchase Price;
- (2) A certified copy of the PCUC's resolution approving this Agreement, authorizing the Chairman to execute and deliver this Agreement, and further authorizing the appropriate officials to take all actions necessary to consummate the transactions contemplated by this Agreement;
- (3) An opinion from Stoll Keenon Ogden PLLC, special counsel to PCUC, dated the Closing Date and in a form satisfactory to Southern District, as to the representations, warranties, and other matters set forth in Paragraph 16 of this Agreement; and

- (4) Such receipts as may be reasonably requested by Southern District and such other documents as may be necessary to effectuate the transactions contemplated by this Agreement.

C. DUE FROM CITY TO SOUTHERN DISTRICT.

Unless Southern District provides a written waiver of any item listed herein, PCUC shall deliver to Southern District at Closing the following:

- (1) A certified copy of the City's resolution approving this Agreement, authorizing the Mayor to execute and deliver this Agreement, and further authorizing the appropriate officials to take all actions necessary to consummate the transactions contemplated by this Agreement; and
- (2) An opinion from the City Attorney, dated the Closing Date and in a form satisfactory to Southern District, as to the representations, warranties, and other matters set forth in Paragraph 17 of this Agreement.

24. SURVIVAL OF REPRESENTATIONS AND WARRANTIES.

The representations, warranties, and agreements of the Parties contained in this Agreement, or in any certificate or other writing delivered pursuant hereto, shall survive the making of this Agreement and the Closing.

25. RESPONSIBLE PARTIES.

A. SOUTHERN DISTRICT. Southern District shall be solely responsible for any loss, claim, action, suit, proceeding deficiency, or expense, including reasonable attorneys' fees, relating to or arising from or in connection with (a) any misrepresentation,

breach of representation, warranty or obligation, covenant or agreement, or default by Southern District under this Agreement, including the exhibits, or any documents delivered to PCUC in connection with this Agreement; (b) claims of negligence or strict liability arising from operation of the transferred Wastewater Assets prior to July 1, 2016, and the transferred Water Assets prior to the Closing; and (c) all contingent liabilities relating to Southern District or the Water and Wastewater Assets with respect to any state of facts or occurrences existing at or prior to the Closing.

B. PCUC AND THE CITY. PCUC and the City shall be solely responsible for any loss, claim, action, suit, proceeding deficiency, or expense, including reasonable attorneys' fees, relating to or arising from or in connection with (a) any misrepresentation, breach of representation, warranty or obligation, covenant or agreement, or default by PCUC or the City under this Agreement, including the exhibits, or any documents delivered to Southern District in connection with this Agreement; (b) claims of negligence or strict liability arising from operation of the transferred Wastewater Assets after July 1, 2016, and the transferred Water Assets after the Closing; and (c) all contingent liabilities relating to Southern District


or the Water and Wastewater Assets with respect to any state of facts or occurrences existing at or prior to the Closing.

26. **ENTIRE AGREEMENT.** This Agreement, including all of its exhibits hereto, constitutes the entire agreement of the Parties with respect to the subject matter hereof and may not be modified or amended or terminated except by written agreement specifically referring to this Agreement, and signed by all of the Parties.

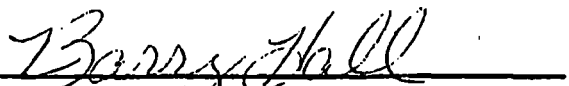
[Remainder of page intentionally left blank.]

IN TESTIMONY WHEREOF, this Agreement has been executed in multiple counterparts, each of which is deemed to be an original, by the duly authorized officers of the Parties, as of the effective date of this Agreement.

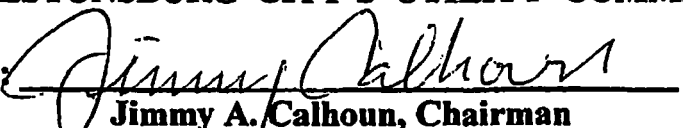
SOUTHERN WATER AND SEWER DISTRICT

BY: 
Paula Johnson, Chairperson

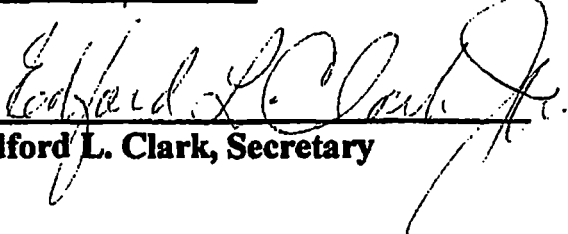
DATE: 12-19-16

ATTEST: 
Barry Hall, Secretary

PRESTONSBURG CITY'S UTILITY COMMISSION

BY: 
Jimmy A. Calhoun, Chairman

DATE: 12-20-16

ATTEST: 
Edford L. Clark, Secretary

CITY OF PRESTONSBURG, KENTUCKY

BY: 
Les Stapleton, Mayor

DATE: 12/20/16

ATTEST: 
Sharon Setser, City Clerk

EXHIBIT 1
SEWER LIFT STATIONS TO BE TRANSFERRED

ID Number	Wastewater Collection System	Name	Type and HP	Location
SLS 1	Harold/Betsy Layne	Stanville	Myers 10HP	Bobcat Boulevard
SLS 2	Wayland	Wayland	Myers 20HP	Wayland City Park
SLS 3	Wayland	Estill Hill	Myers 15HP	Clearwater Road
SLS 4	Wayland	Estill Bottom	Myers 15HP	Estill Bottom Road
SLS 5	Wayland	Pumpkin Center	Myers 20HP	Pumpkin Center Road

EXHIBIT 2

**SOUTHERN WATER AND SEWER DISTRICT'S RATES
FOR WATER SERVICE AS OF JANUARY 1, 2017**

All Meters:

First 2,000 Gallons
Over 2,000 Gallons

\$24.60 Minimum Bill
8.40 Per 1,000 Gallons

EXHIBIT 3

**SOUTHERN WATER AND SEWER DISTRICT'S RATES
FOR SEWER SERVICE AS OF JANUARY 1, 2017**

All Meters:

First 2,000 Gallons
Over 2,000 Gallons

\$28.38 Minimum Bill
9.52 Per 1,000 Gallons