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ATTORNEY AT LAW
117 SOUTH SECOND STREET
P. O. DRAWER 839
HARLAN, KENTUCKY 40831-0839

Telephone (606) 573-1985

RECEIVED

SEP 27 2005

Executive
Director's Office
Fax (606) 573-6413

September 26, 2005

Mark David Goss, Chairman
Public Service Commission
211 Sower BLVD
Frankfort, Kentucky 40602

Case 2005-00397

RECEIVED

SEP 27 2005

RE: Application of Black Mountain Utility District of Harlan County, Kentucky for a Certificate of Public Convenience and Necessity to Construct a Water Line Project Pursuant to the Provisions of KRS 278.023

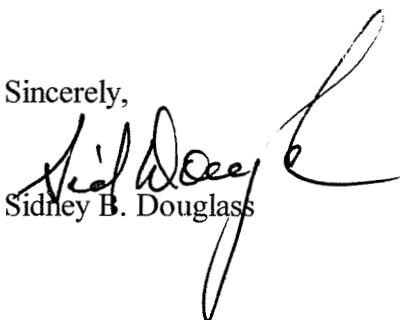
PUBLIC SERVICE
MISSION

Dear Chairman Goss:

Enclosed please find an Application with 10 copies on behalf of Black Mountain Utility District of Harlan County, Kentucky for a Certificate of Public Convenience and Necessity to Construct a Water Line Project from Ages to Verda in Harlan County, Kentucky.

Please accept and approve the enclosed Application.

Sincerely,


Sidney B. Douglass

SBD/kap

cc:
Vickie Rhymer, Chairperson
Black Mountain Utility District

Jody Hunt
Summit Engineering, Inc.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
CASE NO. 2005-00397

RECEIVED

In the Matter of:

SEP 27 2005

THE APPLICATION OF BLACK MOUNTAIN UTILITY
DISTRICT OF HARLAN COUNTY, KENTUCKY FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO CONSTRUCT A WATER LINE PROJECT
PURSUANT TO THE PROVISIONS OF KRS 278.023

PUBLIC SERVICE
COMMISSION

APPLICATION

This Application of the Black Mountain Utility District (the "Applicant") of Harlan County, Kentucky respectfully shows:

1. That the Applicant is a utility district of Harlan County, Kentucky, created and existing under and by virtue of Chapter 74 of the Kentucky Revised Statutes.
2. That the post office address of the Applicant is:
Black Mountain Utility District
c/o Vickie Rhymer, Chairperson
609 Four Mile Road
Baxter, Kentucky 40806
3. That the Applicant, pursuant to the provisions of KRS 278.020, seeks a Certificate of Public Convenience and Necessity, permitting the Applicant's water line extension project, consisting of additions and improvements (the "Project") to the existing water system of the Applicant.
4. The Project consists of the construction of a 4, 6 and 8" PVC waterline along KY Highway 38 Ages Road, River Road, Smith Road and Gabes Branch between Coxton and Verda in Harlan County, Kentucky to tie onto our existing line that goes to Coxton. The design of the Project also includes the construction of one pump station to supply a proposed 20,000 gallon water storage tank on Gabes Branch. The Project is located within the Black Mountain Utility District service area and will provide water up to the existing City of Evarts water supply system. In the event Black Mountain Utility District's supply to Coxton is interrupted, the Evarts connection will serve as a backup supply to the Coxton customers. A PRV will be installed at the Evarts connection to ensure the pressure remains the same. The Coxton to Verda area has no existing water system; residents of the area must obtain water from drilled wells. Water supply from wells is dependent upon rainfall and drilled location. Some residents experience low water supply during times of dry weather. Installation of the new line and tank will provide a dependable potable water supply to the area.
5. That the Applicant proposes to finance the construction of the Project through grant awards from the Appalachian Regional Commission, Community

Development Block Grant and Kentucky Coal Severance and local fees as follows:

C D B G Grant	\$750,000.00
A R C Grant	\$350,000.00
Coal Severance Grant	\$400,000.00
Local (Tap on fees)	\$35,000.00
TOTAL	\$1,535,000.00

A copy of the Memorandum of agreement between Kentucky Infrastructure Authority (KIA) and the Harlan County Fiscal Court is filed herewith as Exhibit A.

6. That the Applicant does not contemplate having the Project constructed with any deviation from minimum construction standards of the Public Service Commission.
7. That the Applicant files herewith the following Exhibits pursuant to 807 KAR 5:069 in support of this Application:
 - A. Copy of Memorandum of agreement between KIA & Harlan County Fiscal Court dated June 30, 2004. Project # WX21095633, Exhibit A.
 - B. Copy of Final Engineering Report.
 - C. Certified statement from the Chairperson of the Applicant, based upon statements of the Engineers for the 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; Sections 8(1) through (3); Sections 9(1) and Sections 10;
 - 2) All other state approvals or permits have already been obtained except Department of Transportation permit for waterline right of way has been verbally approved, final approval is pending contractors bond that is awaiting a notice to proceed, that is awaiting certificate of necessity;
 - 3) The existing rates of the Applicant shall produce the total revenue requirements set out in the engineering reports. See Exhibit B;
 - 4) The project anticipated construction on the project is expected to begin October 1, 2005 and end on March 29, 2006.
8. That the foregoing constitutes the documents necessary to obtain the approval of the Kentucky Public Service Commission in accordance with Section 278.023 of the Kentucky Revised Statutes and in accordance with the "Minimum Filing Requirements" specified in 807 KAR 5:069, Section 3.

WHEREFORE, the Applicant, the Black Mountain Utility District, asks that the Public Service Commission of the Commonwealth of Kentucky grant to the Applicant the following:

- a. A Certificate of Public Convenience and Necessity permitting the Applicant to construct a wastewater project consisting of additions and improvements to the existing wastewater systems of the Applicant.

BLACK MOUNTAIN UTILITY DISTRICT

By: Vicki Rhymer
Vicki Rhymer, Chairperson
Board of Commissioners

SIDNEY B. DOUGLASS, ATTORNEY AT LAW

By: Sidney B. Douglass
Counsel for Applicant
Sidney B. Douglass
P.O. Drawer 839
Harlan, Kentucky 40831
(606) 573-1985

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF HARLAN)

The undersigned, Vicki Rhymer, being duly sworn, deposes and states that she is the Chairperson of the Board of Commissioners of the Black Mountain Utility District, the Applicant, in the above proceedings; that she has read the foregoing Application and has noted the contents thereof; that the same is true of her own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, she believes same to be true.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this 20th day of September, 2005.

Vicki Rhymer
Vicki Rhymer, Chairperson
Black Mountain Utility District

Subscribed, sworn and acknowledged to before me by Vicki Rhymer, Chairperson of the Board of Commissioners of the Black Mountain Utility District on this 20th day of September, 2005.

My Commission expires: July 27th, 2009.
Kimberly Parrott
Notary Public
In and for said County and State

(Seal of Notary)

MEMORANDUM OF AGREEMENT

for

Coal Severance Tax Allocation

PROJECT NUMBER: WX21095633

COAL SEVERANCE
TAX ALLOCATION: \$400,000

UTILITY: HARLAN COUNTY FISCAL COURT

Exhibit A

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "memorandum") by and between the COMMONWEALTH OF KENTUCKY DEPARTMENT FOR LOCAL GOVERNMENT, with address at 1024 Capital Center Drive, #340, Frankfort, Kentucky 40601 (Department), acting through the KENTUCKY INFRASTRUCTURE AUTHORITY, a governmental agency of the Commonwealth of Kentucky, with address at 375 Versailles Road, Frankfort, Kentucky 40601 (Authority) and the Utility identified on the cover of this Agreement (Utility) is made and entered into as set out in Section 4(A) of this Agreement below and shall be binding and effective to and including June 30, 2004.

WITNESSETH

WHEREAS, the Authority shall be acting as the agent for the Department for the purposes of administering and managing the issuance of Coal Severance tax dollars for only water and sewer projects outlined in 2003 Commonwealth of Kentucky General Assembly House Bill 269; and

WHEREAS, the Utility desires to enter into this Agreement with the Authority and the Department for the purpose of securing from the Authority and the Department the Grant hereinafter identified; and

WHEREAS, the Department, the Authority and the Utility have determined to enter into this Memorandum of Agreement to set forth their respective duties, rights, covenants, and obligations with respect to the acquisition, construction and financing of the Project described in the Project Profile together with the Project Budget, which is incorporated herein and made a part hereof as Exhibit 1; and

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein and for the other good and valuable consideration, the receipt, mutuality and sufficiency of all of which is hereby acknowledged by the parties hereto, the Department, the Authority and the Utility each agree as follows:

SECTION 1 - OBLIGATIONS OF THE DEPARTMENT AND THE AUTHORITY

The Department and the Authority covenant and agree, conditioned upon the timely performance by the other party of its respective obligations, to undertake the following obligations:

- A. The Department shall, subject to the availability of appropriate funds in the single county account of the County of Harlan, pay the Utility a sum not to exceed \$400,000 in accordance with Section 2(A) of this Agreement and only upon written authorization by the Authority to the Department. The Department, pursuant to this Agreement, shall make no payment until sufficient funds are realized and available for the Project in the single county fund of the County of Harlan in the amount of \$400,000.

Payments pursuant to this Agreement shall not be authorized for services rendered after Government Contract Review Committee disapproval unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head if the agency has been granted delegation authority by the secretary.

- B. The Authority shall act for the Department in the administration of the Project and may make periodic reviews of the project progress and may make inspections of the Project and send inspection reports to the Utility and the Department. Deficiencies identified in the inspection report shall be corrected by the Utility and the correction reported in writing to the Authority and the Department within two weeks of receipt of the Authority's inspection report.
- C. The Authority shall cooperate with the Utility in order to facilitate the obligations set out in this agreement.

SECTION 2 - OBLIGATIONS OF THE UTILITY

The Utility covenants and agrees to undertake the following obligations:

- A. The Utility agrees to utilize the Request for Payment and Project Status Report (Exhibit 2) for purposes of drawing down funds.
- B. The Utility shall attach to this signed Agreement a copy of the Utility's resolution, which is incorporated herein and made a part hereof as Exhibit 3, accepting the grant award, amending its budget to allow for receipt and expenditures of these funds, and authorizing a designated individual to execute the agreement and all other documentation related to the Project.
- C. The Utility shall perform and/or cause to be performed all necessary acts to plan, design and construct the Project including the proper procurement of any necessary land, easements, rights of way, professional services, including but not limited to architectural and engineering services, as well as construction contractor(s) in accordance with applicable laws including the use of applicable state wage rates, and the provisions stated herein. The Utility shall begin design of this Project on or before the date of the initial request for partial payment. The Utility shall comply with the attached fee schedule (Exhibit 4) for engineering services.
- D. The Utility shall prepare or cause to be prepared all equipment and/or materials specifications, as well as perform and/or cause to be performed all necessary acts to properly bid and enter into appropriate contract(s) with a qualified vendor(s) for equipment and/or materials necessary and appropriate for the Project.

- E. The Utility shall obtain all necessary permits, licenses and approvals from the appropriate federal, state, and/or local governmental entities prior to or during the construction of the Project. Further, the Utility shall require all construction contractors to pay wages pursuant to applicable prevailing wage rates (federal or state) for all work relating to the subject Project.
- ~~F. The Utility shall comply with all applicable federal and state statutes, executive orders, regulatory requirements, and policies relating to the planning and construction of the Project.~~
- G. The Utility shall use its own procurement procedures that reflect applicable state and local laws for all purchases of services, equipment, materials, or construction related to this Project.
- H. The Utility shall retain all records relating to the Project until the records are audited by the Authority, or for three years after certified project completion, whichever occurs first.
- I. The Utility shall cooperate fully with the Authority and provide any documentation requested by the Authority in order to facilitate the obligations set out in this agreement.
- J. The Project shall be completed by the Utility on or before June 30, 2004 unless this agreement shall be extended in writing by the parties.
- K. Any unauthorized or improper expenditure of funds, or expenditure of funds other than in accordance with the terms of this agreement shall be deemed a default of this memorandum by the Utility.
- L. The Utility agrees to adopt and use the Kentucky Uniform System of Accounting (KUSoA), or an alternative approved by the Authority, on or before June 30, 2004, and assure that rates and charges for water service are based upon the cost of providing such service. (Exhibit 5)
- M. The Utility shall provide Final Design and As-built plans (if there is a significant deviation from the Final Design Plan) to the Authority in an AutoCAD Drawing File Format (DWG), referenced to the appropriate (North or South) Kentucky State Plane Coordinate System (NAD83-Survey Feet) on a Compact Disc (CD).
- N. Legal counsel to the Utility has duly executed and delivered the opinion of legal counsel substantially in the form set forth in Exhibit 5 hereto.
- O. Any addition covenants or agreements are incorporated as Exhibit 7, if applicable.

SECTION 3 - MUTUALITY OF OBLIGATIONS

- A. The parties agree that the funds granted by the Commonwealth to the Utility are to be used solely for the purposes of implementing the Project. Further the parties agree that the obligations imposed upon them are for their respective benefit and the timely fulfillment of each and every obligation in accordance with this agreement. ~~The failure of either party to fulfill its obligations under this Agreement or the failure of any action to occur by a date established by this Agreement shall constitute a breach of same.~~
- B. In the event of default by the Utility, including the failure to take actions directed herein and/or to comply with time deadlines set out in this agreement, the Authority may declare this agreement void from the beginning without further obligation to the Utility and may commence appropriate legal action to enforce its rights under this agreement including action for recovery of funds expended hereunder.
- C. Except as may otherwise be provided herein, the parties to this agreement shall be solely responsible for any costs incurred in fulfilling their respective obligations under this agreement and neither party shall have any claim against the other party for reimbursement of costs whether or not a party is in default.

SECTION 4 - TERM OF AGREEMENT

- A. This Agreement shall be effective only upon approval by the Government Contract Review Committee of the Legislative Research Commission or, in the event of disapproval by the committee, upon override of the committee's action in accordance with KRS 45A.695(7). Where the funding amount, as noted in Section 1(A), is \$50,000.00 or less, the Agreement shall be effective upon receipt by the Government Contract Review Committee. The Agreement shall continue in effect through June 30, 2004, unless terminated at an earlier date in accordance with the terms set forth herein. The terms of this Agreement may be renewed or extended upon mutual written agreement duly executed by the parties.
- B. This Agreement may be terminated by either party at any time for cause and may be terminated by either party without cause upon 30 days written notice to the other party. Termination of this Agreement shall not diminish or in any other manner affect any other remedy that may be available to the parties for any breach of the Agreement that occurs prior to the termination.

SECTION 5 - MISCELLANEOUS PROVISIONS

- A. This agreement may be signed by each party upon a separate copy, and in such case one counterpart of this agreement shall consist of a sufficient number of such copies to reflect the signature of each party hereto. This agreement may be executed in two or more counterparts each of which shall be deemed an original, and it shall not be necessary in making proof of this agreement or the terms and conditions hereof to produce or account for more than one of such counterparts.
- B. The headings set forth in this agreement are only for convenience or reference and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this agreement.
- C. The terms and conditions of this agreement shall be binding upon and shall inure to the benefit of the successor and assigns, respectively, of the parties. This provision shall not be construed to permit assignment by any party of any of its rights and duties under this agreement which assignment shall be prohibited except with the prior written consent of the parties hereto.
- D. This agreement sets forth the entire understanding of the parties with respect to the subject matter hereof, superseding all existing memorandums among them concerning the subject matter hereof, and may be modified only by a written instrument duly executed by each of the parties hereto.
- E. Timely and accurate performance of all actions by the respective parties are mutually recognized by the parties hereto to be of great importance to the citizens of the Commonwealth generally, and particularly to those citizens directly affected by the Project subject of this agreement.
- F. The parties agree that any suit, action or proceeding with respect to this agreement may only be brought into or entered by, as the case may be, the courts of the Commonwealth of Kentucky situated in Frankfort, Franklin County, Kentucky or the United States District Court for the Eastern District of Kentucky, Frankfort Division.
- G. The Authority may audit or review all documentation and records of the Utility relating to this Project pursuant to the provisions of KRS 45A.150.
- H. The Utility will sign and return to the Authority the Certificate of Completion, incorporated as Exhibit 8, once all project construction related activities are complete.

1. The Utility agrees that the Department, the Authority, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Furthermore, any books, documents, papers records, or other evidence provided to the Commonwealth, the Department, the Authority, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the contract shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the contract. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency were providing the services.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Agreement to be executed by their respective duly authorized officers as of the day and year above written.

KENTUCKY INFRASTRUCTURE AUTHORITY

By: Jody E. Hughes
JODY E. HUGHES
Executive Director

Examined as to form and legality only:

[Signature]
Legal Counsel for the Utility (signature)
[Signature]

HARLAN COUNTY FISCAL COURT
(UTILITY)

By: Joseph A. Grieshop
(signature)
Joseph A. Grieshop, Harlan County
(Printed Name/Title)
Judge Executive

Examined as to form and legality only:

[Signature]
Legal Counsel for the Department (signature)

DEPARTMENT FOR LOCAL GOVERNMENT

By: Darrell Brock
DARRELL BROCK
Commissioner

**INDEX OF REQUIRED DOCUMENTATION
FOR
MEMORANDUM OF AGREEMENT**

- Exhibit 1 - Project Profile and Project Budget
- Exhibit 2 - Request for Payment and Project Status Report
- Exhibit 3 - Resolution
- Exhibit 4 - Fee Schedule for Engineering
- Exhibit 5 - Statement of Agreement Regarding KUSoA & Cost-Based Rates
- Exhibit 6 - Opinion of Counsel
- Exhibit 7 - Additional Covenants and Agreements
- Exhibit 8 - Certificate of Completion

EXHIBIT 1

PROJECT PROFILE & PROJECT BUDGET

WX21095633

EXHIBIT 2

REQUEST FOR PAYMENT AND PROJECT STATUS REPORT
WX21095633

Request for Payment will be processed monthly

Requests must be received before the 10th of each month and must be consistent with Project Budget.

~~Each Request must be signed and dated by the Project Administrator and the Authorized Official~~

MEMORANDUM OF AGREEMENT DATED _____, 200_____

Project No. WX21095633
Request No. _____
Dated _____

Original sent to: Kentucky Infrastructure Authority
375 Versailles Road
Frankfort, KY 40601

From: HARLAN COUNTY FISCAL COURT (the "Utility")

Pursuant to the Memorandum of Agreement between the Kentucky Infrastructure Authority, and the Utility, we, the undersigned, hereby certify that the Utility has incurred the following expenses relating to the implementation of the Project and request the Authority to pay its share of these expenses herein shown to be in the amount totaling:

\$ _____

An itemized invoice and other documentation supporting the expenses incurred and identified per this request are attached

ELIGIBLE PROJECT EXPENSES INCURRED

<u>Vendor/Contractor(s)</u>	<u>Expenses This Request</u>
<u>Expenses To Date</u>	

TOTAL: \$ _____

\$ _____

REQUEST FOR PAYMENT AND PROJECT STATUS REPORT
ALLOCATION OF FUNDING FOR EXPENSES

WX21095633

<u>Funding Source(s)</u>	<u>% Participation in Project</u>	<u>% Expenses this Request</u>	<u>% Total Expenses to Date</u>
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TOTAL: _____% _____% _____%

We further certify that the expenses cited above were incurred pursuant to local procurement policies which conform to KRS 45A. An itemized invoice and other documentation supporting the expenses incurred and identified per this request will be maintained by the Utility, and will be available for not less than three years for audit purposes.

STATUS REPORT:

Project is:

___ on schedule

___ ahead of schedule

___ behind schedule

if ahead or behind, please explain.

HARLAN COUNTY FISCAL COURT
Utility

Project Administrator (signature)

Authorized Official (signature)

NOTE: Authorized Official Must Be Designated By Resolution

EXHIBIT 3
RESOLUTION
WX21095633

RESOLUTION OF THE HARLAN COUNTY FISCAL COURT (UTILITY)
ACCEPTING THE COAL TAX ALLOCATION, APPROVING THE
~~ASSISTANCE AGREEMENT, AUTHORIZING THE AMENDMENT OF~~
LOCAL BUDGET, AND AUTHORIZING A REPRESENTATIVE TO SIGN
ALL RELATED DOCUMENTS

WHEREAS, the Utility has previously determined that it is in the public interest to acquire and construct certain facilities and improvements to the Water/Wastewater System (the "Project") and

WHEREAS, the Utility received a Coal Severance tax grant commitment from the Commonwealth for the purpose of providing monies to acquire and construct the Project; and

NOW, THEREFORE, BE IT RESOLVED by the Fiscal Court of the County of Harlan as follows:

SECTION 1. That the Utility hereby accepts the grant award and approves the Memorandum of Agreement between the Utility and the Authority substantially in the form on file with the Utility for the purpose of providing a portion of the necessary financing to the Utility for the acquisition and construction of the Project.

SECTION 2. That Joseph A. Griesthop is hereby authorized, directed and empowered by the Utility to execute the Memorandum of Agreement and all other necessary documents or agreements, and to otherwise act on behalf of the Utility to implement the Project.

SECTION 3. That the Utility hereby amends its annual budget to allow for the receipt and expenditures of funds subject to the Memorandum of Agreement with the Authority.

SECTION 4. This Agreement shall take effect immediately upon passage.

ADOPTED on December 11, 2003.

HARLAN COUNTY FISCAL COURT

Utility

Joseph A. D. Griesthop
Representative (signature)

Harlan County Judge Executive
Title

CERTIFICATE

WX21095633

I, the undersigned, hereby certify that I am the duly qualified and acting Clerk of the Fiscal Court; that the foregoing is a full, true and correct copy of a Resolution adopted by the governing authority of said Utility at a meeting duly held on 12-11, 2003; that said official action appears as a matter of public record in the official records or journal of the governing authority; that said meeting was held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.825; that a quorum was present at said meeting; that said official action has not been modified, amended, revoked or repealed and is now in full force and effect.

IN TESTIMONY WHEREOF, witness by me this 11th day of December, 2003.


Secretary/Clerk/Recording Officer

EXHIBIT 4

WX21095633

Required Fee Schedule

Tables for Consulting Engineering Fees for Water and Wastewater Projects in Kentucky

Tables I and II define the fees for Professional Engineering Services and Resident Project Representatives respectively. These tables are calculated as a percentage of project construction cost, as determined by project bids. The table is to be utilized in establishing applicable fees for professional engineering services for all water and wastewater projects in Kentucky which may involve federal and/or state funding. Note: Schedules are identical to those used by the Rural Utilities Service, Rural Development Authority, and USDA. Note: Tables I and II do not pertain to fees involved in preparation of preliminary engineering reports or additional engineering services. Engineering fees for preparation of preliminary engineering report(s) and additional engineering services are subject to negotiation between the engineer, the owner, and subject to approval by the funding agency(ies). A list of typical additional engineering services is attached.

TABLE I - FEES FOR BASIC DESIGN SERVICES

These fees shall pertain to projects requiring complex or detailed engineering design. This will include sewage treatment plants, sewage collection systems, sewage lift stations, water treatment plants, water distribution mains and appurtenances, water pump stations, water storage facilities and renovations of water and sewer facilities.

<u>NET CONSTRUCTION COST</u>	<u>PERCENTAGE FEE</u>
\$	%
100,000	13.00
200,000	11.20
300,000	10.25
400,000	9.70
500,000	9.30
600,000	8.98
700,000	8.70
800,000	8.45
900,000	8.25
1,000,000	8.10
2,000,000	7.15
3,000,000	6.72
4,000,000	6.40
5,000,000	6.25
6,000,000	6.15
7,000,000	6.05
8,000,000	5.95
9,000,000	5.90

Fees for less complex projects such as light industrial buildings, roads, streets, storm drains 24 inches and larger, and appurtenances related thereto shall be 85% of the above Table I percentages. Surveys for design such as topography, profiles, cross sections, and soundings (not to exceed six feet in depth) to estimate the amount of rock excavation are included in the basic service instead of being classified as additional services.

TABLE II - FEES FOR RESIDENT INSPECTION SERVICES

<u>NET CONSTRUCTION COST</u>	<u>PERCENTAGE FEE</u>
\$	%
100,000	12.00
200,000	9.40
300,000	7.80
400,000	7.00
500,000	6.40
600,000	5.80
700,000	5.40
800,000	5.00
900,000	4.80
1,000,000	4.60
2,000,000	3.80
3,000,000	3.00
4,000,000	2.70
5,000,000	2.50
6,000,000	2.32
7,000,000	2.20
8,000,000	2.12
9,000,000	2.05

NOTE. Add two percent to the above Table II percentages for the first \$1,000,000 cost of treatment facilities. Add one percent to the above percentages for all over \$1,000,000 cost of treatment facilities

GENERAL INFORMATION FOR BASIC AND RESIDENT PROJECT REPRESENTATIVE FEES

The Resident Project Representative will maintain a daily log in the identical manner as required by funding agency(ies). Compensation for construction costs between the values listed in the schedule should be determined by interpolation. If a project is divided into units and all units are authorized for design at the same time, the compensation will be determined by adding together the cost of the construction of the various units and applying the table to the sum of these costs. The initial construction award amount will set the fee percent for the project (change orders shall not adjust the fee percent). For construction inspection, the initial percent times the revised construction cost will create an up-set figure not to be exceeded. If remaining funds are used and additional construction is rebid, the project shall be treated as a new project with new fee percentages

OWNER: Joseph A. Driestop
 TITLE: Harlan County Judge Executive
 DATE: 12-11-03

ENGINEER: [Signature]
 TITLE: PROJECT EXECUTIVE, SUMMIT ENGINEERING
 DATE: 3-26-04

TYPICAL ADDITIONAL ENGINEERING SERVICES

Tables I and II do not pertain to engineering fees for preparation of preliminary engineering reports and additional engineering services. Engineering fees for preparation of preliminary engineering report(s) and additional engineering services are subject to negotiation between the engineer, the owner, and subject to approval by the funding agency(ies).

Below is a listing of 'typical' additional engineering services.

- Site surveys for water treatment plants, sewage treatment works, dams, reservoirs, and other similar special surveys as may be required.
- Laboratory tests, well tests, borings, specialized geological, soils, hydraulic, or other studies recommended by the ENGINEER.
- Property surveys, detailed description of sites, maps, drawings, or estimates related thereto; assistance in negotiating for land and easement rights.
- Necessary data and filing maps for water rights, water adjudication, and litigation.
- Redesigns ordered by the OWNER after final plans have been accepted by the OWNER and the funding agency(ies), except redesigns to reduce the project cost to within the funds available.
- Appearances before courts or boards on matter of litigation or hearings related to the project.
- Preparation of environmental assessments or environmental impact statements.
- Performance of detailed staking necessary for construction of the project, in excess of the control staking.
- Operation and maintenance manual for facilities.
- Value engineering.
- Preparation of a use ordinance and user charge system/ordinance based on actual customer use and in compliance with the DOW and/or other required guidelines.

EXHIBIT 5

STATEMENT OF AGREEMENT
TO UTILIZE
KENTUCKY UNIFORM SYSTEM OF ACCOUNTING AND COST-BASED RATES

WX21095633

I hereby certify that the Utility cited below agrees, as a condition of fund award, to adopt and use, *on or before June 30, 2004*, the Kentucky Uniform System of Accounting, or an alternative process (to be approved by the Kentucky Infrastructure Authority) which includes an annual budget, a chart of accounts, and monthly operating/management reporting. I also certify that rates and charges for water service will be based upon the cost of providing such service.

Signed:

HARLAN COUNTY FISCAL COURT
Name of Utility

Joseph A. Drieshop
Signature of Authorized Individual

Joseph A. Drieshop, Harlan County Judge
Printed Name/Title of Authorized Individual *Executive*

12-11-03
Date

KENTUCKY WATER PROJECT PROFILE

Areas Indicated with (*) are required fields.

1.* Project Title (use title which will be identifiable by local community):

Coxton - Verda Water Line Project

2.* Project Description:

Provide a brief narrative denoting if project relates to source, distribution, treatment, storage

Project will serve 213 new customers in the densely populated areas of Coxton, Brookside and Verda. These households are currently utilizing dug wells that have demonstrated consistantly poor quality water.

* Project Descriptor: Coxton-Verda Water Line Project

* WRIS Project Number (PNUM): WX21095695
This number is assigned by an ADD through the respective Area Water Management Planning Council once the project profile by the Council. This number ties each project to mapped/spatial information in the Water Resource Information System (WRIS) profiles without this number AND the required corresponding mapped/spatial information will NOT be accepted.

* Project County: Harlan

* Is it a multi-county project: C Yes @ No

* Project Submitted By: Cumberland Valley

* Select the PWSID# from the list below:

Available:

- 0010082
- 0010702
- 0020386
- 0020956
- 0030007
- 0030239
- 0030660
- 0040015
- 0040020

Selected:

0480125

3. Legal Applicant

* Legal Applicant: Black Mountain Utility District

Project Administrator Information

* First Name: [] * Last Name: [Lockhart] M.I.: []
 Title: [Water District Clerk]
 Street Address Line 1: [609 Baxter Road]
 Street Address Line 2: []
 P.O. Box: []
 City: [Baxter] State: [KY] Zip: [40606]

Contact Person Information

* First Name: [Peggy] * Last Name: [Rasmussen-Juelice] M.I.: []
 Title: [Client Sponsor]
 Street Address Line 1: [131 Summit Drive]
 Street Address Line 2: []
 P.O. Box: []
 City: [Elkville] * State: [KY] * Zip: [41501]
 County: [Pike]
 * Telephone: [606-432-1447] Ext: [318]
 Fax: [606-432-1440]
 Email: [prashicx@summit-engr.com]

Authorized Official Information

* First Name: [Sherry] * Last Name: [Ayers] M.I.: []
 Title: [Board Chairperson]
 Street Address Line 1: [609 Four Mile Road]
 Street Address Line 2: []
 P.O. Box: []
 City: [Baxter] * State: [KY] * Zip: [40606]
 County: [Harlan]
 * Telephone: [(606) 573-1277] Ext: []
 Fax: [606-573-1276]
 Email: []

* Organizational Structure: [Municipality]
 Water Utility which will own proposed improvements: []
 (if different from Legal Applicant)

County: Harlan

* Telephone: 606-573-1277 Ext:

Fax: 606-573-1276

Email:

Consulting Engineer Information

* First Name: Kevin * Last Name: Howard M.I.

Firm: Summit Engineering, Inc.

Street Address Line 1: 120 Prosperous Drive

Street Address Line 2: Suite 101

P.O. Box:

City: Lexington State: KY Zip:

County: Fayette

* Telephone: 8592649860 Ext: 306

Fax:

Email: khoward@summit-engr.com

4.* Project Type (atleast one required/check all that apply):

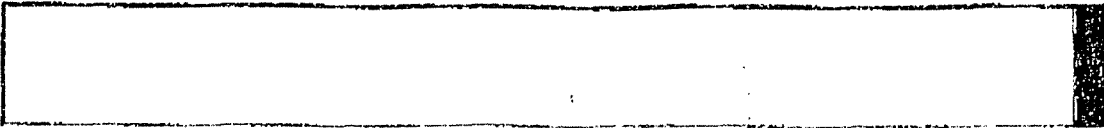
- Planning
- Design
- Construction
- Management

5. Project Alternatives: Please list a minimum of three:

- a.* Supply water from Evarts
- b.* Supply water from Harlan
- c.* Do nothing

6. Special Impact(s) of Proposed Water Project:

- a.* New service/improve service to 213 unserved 0 underserved household:
- b. Number of new jobs: 0 Number of retained jobs: 0
- c. Other beneficial technical, managerial, fiscal impacts: (20 words or less)



d.* Does proposed activity relate to public health protection emergency: Yes No

e.* Does project involve regionalization: Yes No

f. Number of systems affected/involved:

7.* Median Household Income of Service Area:

\$

8.* Project Start Schedule:

Years 0-2 Years 3-10 Years 11-20

9. Estimated Funding Sources:

* Estimated Local Funding Amount \$

* Estimated Other Funding Amount (all sources) \$

Total Estimated Project Cost \$

10. Project Data - Water (complete all items which apply to your project)

a.* Is project related to source protection? Yes No

Drinking Water Facilities

b.* Is project related to source? Yes No

c.* Is project related to water treatment? Yes No

d.* Is project related to distribution (Extension/Rehab)? Yes No

Check all that apply to your project:

Extension Water Tank

Rehab/Improvement Pump Station

Proposed project involves construction of line

Total linear feet of new line

Line Size (In inches) 2 3 4 6 8 10 greater than 1

Material Ductile Iron PVC PE Other

Project activity improves pressure, as a result of

Replacement of total linear feet of inadequately sized lines

total gallons of increased storage due to additional demand

Leaks, Breaks, or restrictive flows due to age

Project activity improves water quality by providing:

Adequate turnover of water

Proper maintenance of disinfection residual

Replacement of total linear feet of lead, copper, asbestos-cement lines

Briefly describe why the above items apply to your project:

N/A

e. Management (describe)

N/A

f. Other (describe)

N/A

g.* Date Project was approved by the Area Water Management Planning Council: 09/24/2005

**COXTON TO VERDA CONNECTOR PROJECT
FINAL ENGINEERING REPORT
CONTRACT
BLACK MOUNTAIN UTILITY DISTRICT
HARLAN COUNTY, KENTUCKY**

Introduction

This report is prepared as documentation for the award of the contract for the Coxton to Verda Connector Project. The contract is part of an effort by Black Mountain Utility District to provide potable water service to all residents within the utility district.

History/Objective

Planning identified the area between Coxton and Verda as an area that was lacking potable water service. It identified the area where residents were using unreliable and unsafe well water supplies for their needs. It also outlined a means for providing an interconnection between Harlan Water Works and the City of Evarts system in Verda.

The intent of the Coxton to Verda Connector Project is to replace unsafe well water supplies with a reliable potable water supply as well as a backup water supply.

Plans and Approvals

Plans, specifications, construction permit applications, and supporting calculations were submitted to the Division of Water for review in January of 2004. The Division of Water approval letters were issued on February 25, 2004 for potable waterline extension. An extension letter was issued on February 18, 2005.

Exhibit B

Easements and Rights of Way

Property easements for this project were obtained by joint efforts between the Black Mountain Utility District and Summit Engineering, Inc. The Department of Transportation has given verbal approval for the encroachment permit. The contractor will be responsible for providing the bond in order to obtain the encroachment permit.

Project Funding

As a result of bidding the total project cost is estimated at \$1,535,000.00. A total of \$1,535,000.00 in funding is available. Funding committed for the project may be summarized as follows:

CDBG Grant	\$ 750,000.00
ARC Grant	\$ 350,000.00
Coal Severance	\$ 400,000.00
<u>Local</u>	<u>\$ 35,000.00</u>
TOTAL	\$1,535,000.00

This funding includes a 9.88 % contingency.

Bidding

The contract was advertised for bids on July 25, 2005. Bids were opened on August 8, 2005. The results of bidding are summarized in attached bid evaluation spreadsheet. Evidentiary materials of the bidding process (affidavits) have been obtained from the newspaper. A copy of the affidavit is included

Award of Contract

The rules for award are lowest base bid. Alternates and deducts are not considered for the lowest base bid.

The bids were within the project total estimate and funding commitments.

At the Black Mountain Utility District's request and approval Summit Engineering, Inc. has awarded the contract to the low bidder, which was Akins Excavating Co., Inc.

Financial Viability

Because of the commitments of funds the project can be fully constructed. Funds are available for draw down on the project. The breakdown of the project finances is included at the end of this report.

Construction Schedule

The contract has a 180 calendar day construction time. It is a project goal to issue a Notice to Proceed dated no later than October 1, 2005. This would have the contractor completing construction on March 29, 2006.

**COXTON TO VERDA CONNECTOR
OPERATING AND MAINTENANCE
COST ESTIMATE
9/1/2005**

ITEM	ANNUAL COST
Water Lines (34,500 lf) (1 mile/5280 lf) (\$500/mile/yr) USE \$500/yr	\$3,267
Pump Station 1 pump station (5 hp) Electrical Power 5 hp x 746 kW/hp x 12 hr/day x 07\$/kW-hr x 365 day/yr	\$1,144
Water Storage Tank \$1000 / yr	\$1,000
Pump Station 1 Pump Station @ \$850/ year	\$850
Water Purchase (220 customers) x (17.61/ customer/ month) (12 months)	\$46,490
TOTAL ANNUAL O&M COSTS	\$52,751

ITEM	ANNUAL REVENUE
Customer Revenues (220 customers) * (\$29.69/ customer water bill) (12 months) Average customer use is 3631 gal / month	\$ 78,381.60
TOTAL ANNUAL REVENUE	\$ 78,381.60

The Harlan Daily Enterprise
P.O. Box 1155 — Harlan, Kentucky 40831
(606) 573-4510

NOTARIZED PROOF OF ADVERTISING

State of Kentucky
County of Harlan

Before me, a Notary Public, in and for said County and State, this 1st day of August, 2005, came Christy Freeman, personally known to me, who being duly sworn, states as follows: That he/she is Classified Manager, of The Harlan Daily Enterprise, and that said publication of July 25, 2005, carries the advertising of: Summit Engineering for BMUD.

Signature: Christy Freeman

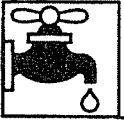
Notary Public: Wylene McInnis

My Commission Expires: 06/19/07

... of the Contract Documents may be
purchased from Lynn Imaging upon
payment of a non-refundable charge of
\$10.00 per set, cash or check payable to
Lynn Imaging. Documents may be obtained
from Lynn Imaging, 328 Old Vine Street,
Lexington, KY 40507-0250, 225-5550 or at
<http://www.lynnimaging.com>. If documents
are to be mailed, there will be an additional
mailing fee of \$10.00 for each set payable
to Lynn Imaging.

State and hour provisions do apply
to this project. State and hour provisions do
apply to this project. This project is being
funded with CDBG funds.

A Pre-Bid Conference will be conducted by
representatives of Summit Engineering, Inc.
Interested parties are to meet at the office
of the Mountain Valley District at 10:00



BLACK MOUNTAIN UTILITY DISTRICT



609 FOURMILE ROAD • BAXTER, KY 40806

Phone: 1-606-573-1277

Fax: 1-606-573-1276

September 22, 2005

Mark David Goss
Public Service Commission
211 Sower BLVD
Frankfort, Kentucky 40602

RE: Phase II, Coxton to Verda Connector

Mr. Goss:

The proposed plans and specifications for the project have been designed to meet the minimum construction and operating requirements set out in KAR 5:066, Section 4 (3) and (4); Section 5 (1); Sections 6 and 7; Sections 8 (1) through (3); Sections 9 (1) and Sections 10.

All other state approvals or permits have already been obtained except Department of Transportation permit for waterline right of way has been verbally approved, final approval is pending contractors bond that is awaiting a notice to proceed, that is awaiting certificates of necessity.

The existing rates shall produce the total revenue requirements set out in the engineering reports. See Exhibit B.

The project anticipated construction on the project is expected to begin October 1, 2005 and end on March 29, 2006.

Thank you,

Vickie Rhymer
Vickie Rhymer

Encl.

cc: Summit Engineering, Inc.
file



BLACK MOUNTAIN UTILITY DISTRICT



609 FOURMILE ROAD • BAXTER, KY 40806

Phone: 1-606-573-1277
Fax: 1-606-573-1276

September 22, 2005

Mark David Goss
Public Service Commission
211 Sower BLVD
Frankfort, Kentucky 40602

RE: Phase II, Coxton to Verda Connector

Mr. Goss:

The following table represents the total project cost and itemized funding allocated for the above referenced project.

TOTAL CONSTRUCTION COST		\$1,198,349.95
Construction Contingency @ 9.88%		\$118,494.15
Basic Engineering		\$92,777.65
Resident Inspection		\$50,279.50
Additional Engineering Services		\$10,000.00
EA/HTRW	\$7,500.00	
Engineering Reports	\$2,500.00	
Project Financing and Administration		\$25,000.00
Geotechnical		\$10,000.00
Archaeological Investigations		\$1,500.00
Right of Way		\$25,000.00
Miscellaneous (Legal Fee for RR permits, Advertisements & Public Notices, etc.)		\$3,598.75
TOTAL PROJECT COST		\$1,535,000.00
<u>FUNDING AGENCY</u>		<u>AMOUNT</u>
CDBG Grant:		\$750,000.00
ARC Grant:		\$350,000.00
Coal Severance:		\$400,000.00
<u>Local (Tap Fees):</u>		<u>\$35,000.00</u>
TOTAL:		\$1,535,000.00

Thank you,

Vickie Rhymer
Vickie Rhymer

cc: Summit Engineering, Inc.
file